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E relating to the Great Lakes-
St. Lawrence basin development,
1938-1941.



**CORRESPONDENCE AND
DOCUMENTS**

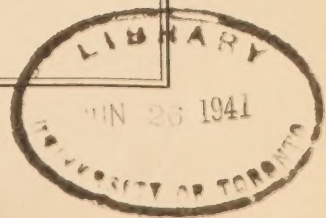
relating to

**THE GREAT LAKES-
ST. LAWRENCE BASIN DEVELOPMENT**

1938 — 1941



OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1941



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1941

**CORRESPONDENCE AND DOCUMENTS RELATING TO THE
GREAT LAKES—ST. LAWRENCE BASIN DEVELOPMENT
1938-1941.**

- PART I: Agreements with the United States and with Ontario concerning the Great Lakes—St. Lawrence Basin Development.
- PART II: Correspondence between the Governments of Canada and the United States, concerning the Great Lakes—St. Lawrence Basin Development.
- PART III: Correspondence between the Government of Canada and the Government of Ontario concerning the Great Lakes—St. Lawrence Basin Development.
- PART IV: Correspondence between the Government of Canada and the Government of Quebec concerning the Great Lakes—St. Lawrence Basin Development.
- PART V: General Plan.

NOTE.—A publication regarding Correspondence and Documents relating to the St. Lawrence Deep Waterway Treaty, 1932, and Ogoki River and Kenogami (Long Lake) projects, and Export of Electrical Power, was tabled in the House of Commons on February 28, 1938. A supplementary publication was tabled in the House of Commons on March 21, 1938. This volume includes the Correspondence and Documents relating to the Great Lake-St. Lawrence Basin Development subsequent to those publications and up to the date of the Canada-United States Agreement, March 19, 1941.



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PART I

AGREEMENTS WITH THE UNITED STATES AND WITH ONTARIO CONCERNING THE GREAT LAKES-ST. LAW- RENCE BASIN DEVELOPMENT.

No. 1

*Agreement Between Canada and the United States Providing for the
Development of Navigation and Power in the Great
Lakes-St. Lawrence Basin.*

His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, and the President of the United States of America have decided to conclude an Agreement in relation to the utilization of the water in the Great Lakes-St. Lawrence Basin and to that end have named as their respective plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, for Canada:

The Right Honourable W. L. MACKENZIE KING,
Prime Minister, President of the Privy Council and
Secretary of State for External Affairs;

The Honourable CLARENCE D. HOWE,
Minister of Munitions and Supply;

JOHN E. READ,
Legal Adviser, Department of External Affairs;
The President of the United States of America:

JAY PIERREPONT MOFFAT,
Envoy Extraordinary and Minister Plenipotentiary of the
United States of America to Canada;

ADOLF AUGUSTUS BERLE, Jr.,
Assistant Secretary of State;

LELAND OLDS,
Chairman of the Federal Power Commission;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles.

PRELIMINARY ARTICLE

For the purposes of the present Agreement, unless otherwise expressly provided, the expression:

- (a) "Joint Board of Engineers" means the board appointed pursuant to an agreement between the Governments following the recommendation of the International Joint Commission, dated December 19, 1921;
- (b) "Great Lakes System" means Lakes Superior, Michigan, Huron (including Georgian Bay), Erie and Ontario, and the connecting waters, including Lake St. Clair;
- (c) "St. Lawrence River" includes the river channels and the lakes forming parts of the river channels from the outlet of Lake Ontario to the sea;
- (d) "International Section" means that part of the St. Lawrence River through which the international boundary line runs;
- (e) "Canadian Section" means that part of the St. Lawrence River which lies wholly within Canada and which extends from the easterly limit of the International Section to Montreal Harbour;
- (f) "International Rapids Section" means that part of the International Section which extends from Chimney Point to the village of St. Regis;
- (g) "Governments" means the Government of the United States of America and the Government of Canada;
- (h) "countries" means the United States of America and Canada;
- (i) "Special International Niagara Board" means the board appointed by the Governments in 1926 to ascertain and recommend ways and means to preserve the scenic beauty of the Niagara Falls;
- (j) "deep waterway" means adequate provision for navigation requiring a controlling channel depth of 27 feet with a depth of 30 feet over lock sills, from the head of the Great Lakes to Montreal Harbour via the Great Lakes System and St. Lawrence River, in general accordance with the specifications set forth in the Report of the Joint Board of Engineers, dated November 16, 1926.

ARTICLE I

1. The Governments agree to establish and maintain a Great Lakes-St. Lawrence Basin Commission, hereinafter referred to as the Commission, consisting of not more than ten members of whom an equal number shall be appointed by each Government. The duties of the Commission shall be:

- (a) to prepare and to recommend plans and specifications for the construction of works in the International Rapids Section in accordance with and containing the features described in the Annex attached to and made part of this Agreement, with such modifications as may be agreed upon by the Governments;
- (b) upon approval of the plans and specifications by the Governments, to prepare a schedule allocating the construction of the works in the International Rapids Section on such a basis that each Government shall construct the works within its own territory or an equivalent proportion of the works so approved;
- (c) to approve all contracts entered into on behalf of either Government for the works in the International Rapids Section;
- (d) to supervise the construction of the works and to submit reports to the Governments from time to time, and at least once each calendar year, on the progress of the works;
- (e) upon satisfactory completion of the works, to certify to the Governments that they meet the plans and specifications drawn up by the Commission and approved by the Governments;
- (f) to perform the other duties assigned to it in this Agreement.

2. The Commission shall have the authority to employ such persons and to make such expenditures as may be necessary to carry out the duties set forth in this Agreement. It shall have the authority to avail itself of the services of such governmental agencies, officers and employees of either country as may be made available. The remuneration, general expenses and all other expenses of its members shall be regulated and paid by their respective Governments; and the other expenses of the Commission, except as provided for under Article III, paragraph (b) of this Agreement, shall be borne by the Governments in equal moieties.

3. The Governments agree to permit the entry into their respective countries, within areas immediately adjacent to the Niagara River and the International Section to be delimited by exchange of notes, of personnel employed by the Commission or employed in the construction of the works, and to exempt such personnel from the operation of their immigration laws and regulations within the areas so delimited. In the event that the Commission, pursuant to the provisions of paragraph 1 (b) of this Article, allocates to either of the Governments the construction of works, any part of which is within the territory of the other Government, the latter Government shall make provision for the according, within the area in which such a part is situated, of such exemption from customs, excise and other imposts, federal, state and provincial, as may be reasonably practicable for the effective

and economical prosecution of the work. Regulations providing for such exemptions may be settled by the Governments by exchange of notes.

4. The Governments shall, by exchange of notes, prescribe rules and regulations for the conduct of the Commission. They may by the same means extend or abridge its powers and duties; and reduce or after reduction increase the number of members (provided that there must always be an equal number appointed by each Government and that the total number of members shall at no time exceed ten); and, upon completion of its duties, the Governments may terminate its existence.

ARTICLE II

The Government of Canada agrees:

- (a) in accordance with the plans and specifications prepared by the Commission and approved by the Governments, to construct the works in the International Rapids Section allocated to Canada by the Commission; and to operate and maintain or arrange for the operation and maintenance of the works situated in the territory of Canada;
- (b) to complete, not later than December 31, 1948, the essential Canadian links in the deep waterway, including the necessary deepening of the new Welland Ship Canal and the construction of canals and other works to provide the necessary depth in the Canadian Section of the St. Lawrence River; provided that, if the continuance of war conditions or the requirements of defence justify a modification of the period within which such works shall be completed, the Governments may, by exchange of notes, arrange to defer or expedite their completion as circumstances may require.

ARTICLE III

The Government of the United States of America agrees:

- (a) in accordance with the plans and specifications prepared by the Commission and approved by the Governments, to construct the works in the International Rapids Section allocated to the United States of America by the Commission; and to operate and maintain or arrange for the operation and maintenance of the works situated in the territory of the United States of America;
- (b) to provide, as required by the progress of the works, funds for the construction, including design and supervision, of all

works in the International Rapids Section except (1) machinery and equipment for the development of power, and (2) works required for rehabilitation on the Canadian side of the international boundary;

- (c) not later than the date of completion of the essential Canadian links in the deep waterway, to complete the works allocated to it in the International Rapids Section and the works in the Great Lakes System above Lake Erie required to create essential links in the deep waterway.

ARTICLE IV

The Governments agree that:

- (a) they may, in their respective territories, in conformity with the general plans for the project in the International Rapids Section, install or arrange for the installation of such machinery and equipment as may be desired for the development of power and at such time or times as may be most suitable in terms of their respective power requirements;
- (b) in view of the need for co-ordination of the plans and specifications prepared by the Commission for general works in the International Rapids Section with plans for the development of power in the respective countries, the Commission may arrange for engineering services with any agency in either country which may be authorized to develop power in the International Rapids Section;
- (c) except as modified by the provisions of Article VIII, paragraph (b) of this Agreement, each country shall be entitled to utilize one-half of the water available for power purposes in the International Rapids Section;
- (d) during the construction and upon the completion of the works provided for in the International Rapids Section, the flow of water out of Lake Ontario into the St. Lawrence River shall be controlled and the flow of water through the International Section shall be regulated so that the navigable depths of water for shipping in the harbour of Montreal and throughout the navigable channel of the St. Lawrence River below Montreal, as such depths now exist or may hereafter be increased by dredging or other harbour or channel improvements, shall not be injuriously affected by the construction or operation of such works, and the power developments in the Canadian Section of the St. Lawrence River shall not be adversely affected;
- (e) upon the completion of the works provided for in the International Rapids Section, the power works shall be operated, initially, with the water level at the power houses held at a

maximum elevation 238·0, sea level datum as defined in the Report of the Joint Board of Engineers, for a test period of ten years or such shorter period as may be approved by any board or authority designated or established under the provisions of paragraph (f) of this Article; and, in the event that such board or authority considers that operation with the water level at the power houses held to a maximum elevation exceeding 238·0 would be practicable and could be made effective within the limitations prescribed by paragraphs (c) and (d) of this Article, the Governments may, by exchange of notes, authorize operation, subject to the provisions of this Article, and for such times and subject to such terms as may be prescribed in the notes, at a maximum elevation exceeding 238·0;

- (f) the Governments may, by exchange of notes, make provision for giving effect to paragraphs (c), (d) and (e) of this Article;
- (g) during the construction of the works provided for in the International Rapids Section, facilities for 14 ft. navigation in that Section shall be maintained.

ARTICLE V

The Governments agree that nothing done under the authority of this Agreement shall confer upon either of them proprietary rights, or legislative, administrative or other jurisdiction, in the territory of the other, and that the works constructed under the provisions of this Agreement shall constitute a part of the territory of the country in which they are situated.

ARTICLE VI

The Governments agree that either of them may proceed at any time to construct, within its own territory and at its own cost, alternative canal and channel facilities for navigation in the International Section or in waters connecting the Great Lakes, and to utilize the water necessary for the operation of such facilities.

ARTICLE VII

The High Contracting Parties agree that the rights of navigation accorded under the provisions of existing treaties between the United States of America and His Majesty shall be maintained notwithstanding the provisions for termination contained in any of such treaties, and declare that these treaties confer upon the citizens or subjects and upon the ships, vessels and boats of each High Contracting Party, rights of navigation in the St. Lawrence River, and the Great Lakes System, including the canals now existing or which may hereafter be constructed.

ARTICLE VIII

The Governments, recognizing their common interest in the preservation of the levels of the Great Lakes System, agree that:

- (a) each Government in its own territory shall measure the quantities of water which at any point are diverted from or added to the Great Lakes System, and shall place such measurements on record with the other Government semi-annually;
- (b) in the event of diversions being made into the Great Lakes System from other watersheds lying wholly within the borders of either country, the exclusive rights to the use of waters which are determined by the Governments to be equivalent in quantity to any waters so diverted shall, notwithstanding the provisions of Article IV, paragraph (c) of this Agreement, be vested in the country diverting such waters, and the quantity of water so diverted shall be at all times available to that country for use for power below the point of entry, so long as it constitutes a part of boundary waters;
- (c) if any diversion of water from the Great Lakes System or the International Section, other or greater in amount than diversions permitted in either of the countries on January 1, 1940, is authorized, the Government of such country agrees to give immediate consideration to any representations respecting the matter which the other Government may make; if it is impossible otherwise to reach a satisfactory settlement, the Government of the country in which the diversion of water has been authorized agrees, on the request of the other Government, to submit the matter to an arbitral tribunal which shall be empowered to direct such compensatory or remedial measures as it may deem just and equitable; the arbitral tribunal shall consist of three members, one to be appointed by each of the Governments, and the third, who will be the chairman, to be selected by the Governments;
- (d) the Commission shall report upon the desirability of works for compensation and regulation in the Great Lakes System, and, upon the approval by the Governments of any such works, shall prepare plans and specifications for their construction and recommend to the Governments an equitable allocation of their cost; the Governments shall make arrangements by exchange of notes for the construction of such works as they may agree upon.

ARTICLE IX

The Governments, recognizing their primary obligation to preserve and enhance the scenic beauty of the Niagara Falls and River, and

consistent with that obligation, their common interest in providing for the most beneficial use of the waters of that River, as envisaged in the Final Report of the Special International Niagara Board, agree that:

- (a) the Commission shall prepare and submit to the Governments plans and specifications for works in the Niagara River designed to distribute and control the waters thereof, to prevent erosion and to ensure at all seasons unbroken crest lines on both the American Falls and the Canadian Falls and to preserve and enhance their scenic beauty, taking into account the recommendations of the Special International Niagara Board; the Governments may make arrangements by exchange of notes for the construction of such works in the Niagara River as they may agree upon, including provision for temporary diversions of the waters of the Niagara River for the purpose of facilitating construction of the works; the cost of such works in the Niagara River shall be borne by the Governments in equal moieties;
- (b) upon the completion of the works authorized in this Article, diversions of the waters of the Niagara River above the Falls from the natural course and stream thereof additional to the amounts specified in Article 5 of the Boundary Waters Treaty of 1909 may be authorized and permitted by the Government to the extent and in the manner hereinafter provided:
 - (1) the United States may authorize and permit additional diversion within the State of New York of the waters of the River above the Falls for power purposes, in excess of the amount specified in Article 5 of the Boundary Waters Treaty of 1909, not to exceed in the aggregate a daily diversion at the rate of five thousand cubic feet of water per second;
 - (2) Canada may authorize and permit additional diversion within the Province of Ontario of the waters of the River above the Falls for power purposes, in excess of the amount specified in Article 5 of the Boundary Waters Treaty of 1909, not to exceed in the aggregate a daily diversion at the rate of five thousand cubic feet of water per second;
- (c) upon completion of the works authorized in this Article, the Commission shall proceed immediately to test such works under a wide range of conditions, and to report and certify to the Governments the effect of such works, and to make recommendations respecting diversions of water from Lake Erie and the Niagara River, with particular reference to (1) the perpetual preservation of the scenic beauty of the Falls and Rapids, (2) the requirements of navigation in the Great Lakes System,

and (3) the efficient utilization and equitable apportionment of such waters as may be available for power purposes; on the basis of the Commission's reports and recommendations, the Governments may by exchange of notes and concurrent legislation determine the methods by which these purposes may be attained.

ARTICLE X

The Governments agree that:

- (a) each Government undertakes to make provision for the disposition of claims and for the satisfaction of any valid claims arising out of damage or injury to persons or property occurring in the territory of the other in the course of and in connection with construction by such Government of any of the works authorized or provided for by this Agreement;
- (b) each Government is hereby released from responsibility for any damage or injury to persons or property in the territory of the other which may be caused by any action authorized or provided for by this Agreement, other than damage or injury covered by the provisions of paragraph (a) of this Article;
- (c) each Government will assume the responsibility for and the expense involved in the acquisition of any lands or interests in land in its own territory which may be necessary to give effect to the provisions of this Agreement.

ARTICLE XI

This Agreement shall be subject to approval by the Parliament of Canada and the Congress of the United States of America. Following such approval it shall be ratified by His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada and proclaimed by the President of the United States of America. It shall enter into force on the day of the exchange of the instrument of ratification and a copy of the proclamation, which shall take place at Washington.

In witness whereof the respective plenipotentiaries have signed this Agreement in duplicate and have hereunto affixed their seals.

Done at Ottawa, the nineteenth day of March, in the year of our Lord one thousand nine hundred and forty-one.

[L.S.]	W. L. MACKENZIE KING
[L.S.]	C. D. HOWE
[L.S.]	JOHN E. READ
[L.S.]	JAY PIERREPONT MOFFAT
[L.S.]	ADOLF A. BERLE, Jr.
[L.S.]	LELAND OLDS

ANNEX

CONTROLLED SINGLE STAGE PROJECT (238-242)

FOR WORKS IN THE INTERNATIONAL RAPIDS SECTION

(See Article 1, Paragraph 1 (a))

The main features of the Controlled Single Stage Project (238-242), described in detail with cost estimates in the report of the Temporary Great Lakes-St. Lawrence Basin Committees dated January 3, 1941, are as follows:

- (1) A control dam in the vicinity of Iroquois Point.
- (2) A dam in the Long Sault Rapids at the head of Barnhart Island and two power houses, one on either side of the international boundary, at the foot of Barnhart Island.
- (3) A side canal, with one lock on the United States mainland to carry navigation around the control dam and a side canal, with one guard gate and two locks, on the United States mainland south of Barnhart Island to carry navigation from above the main Long Sault Dam to the river south of Cornwall Island. All locks to provide 30 ft. depth of water on the mitre sills and to be of the general dimensions of those of the Welland Ship Canal. All navigation channels to be excavated to 27 ft. depth.
- (4) Dykes, where necessary, on the United States and Canadian sides of the international boundary, to retain the pool level above the Long Sault Dam.
- (5) Channel enlargement from the head of Galop Island to below Lotus Island designed to give a maximum velocity in the navigation channel south of Galop Island not exceeding four feet per second at any time.
- (6) Channel enlargement between Lotus Island and the control dam and from above Point Three Points to below Ogden Island designed to give a maximum mean velocity in any cross-section not exceeding two and one-quarter feet per second with the flow and at the stage to be permitted on the 1st of January of any year, under regulation of outflow and levels of Lake Ontario.
- (7) The necessary railroad and highway modifications on either side of the international boundary.
- (8) The necessary works to permit the continuance of 14 ft. navigation on the Canadian side around the control dam and from the pool above the Long Sault Dam to connect with the existing Cornwall Canal.
- (9) The rehabilitation of the towns of Iroquois and Morrisburg, Ontario.

All the works in the pool below the control dam shall be designed to provide for full Lake Ontario level but initially the pool shall be operated at maximum elevation 238.0.

No. 2

Agreement between Canada and Ontario providing for the Development of Power in the Great Lakes-St. Lawrence Basin

AGREEMENT made this nineteenth day of March, A.D. 1941,

BETWEEN

THE GOVERNMENT OF CANADA, herein represented by the Right Honourable W. L. MACKENZIE KING, Prime Minister, President of the Privy Council and Secretary of State for External Affairs, and the Honourable CLARENCE D. HOWE, Minister of Munitions and Supply, and hereinafter referred to as Canada,

of the First Part;

AND

THE GOVERNMENT OF ONTARIO, herein represented by the Honourable MITCHELL F. HEPBURN, Premier and President of the Executive Council of Ontario, and the Honourable HARRY C. NIXON, Provincial Secretary of Ontario, and hereinafter referred to as Ontario,

of the Second Part:

WHEREAS an agreement, hereinafter referred to as the Canada-United States Agreement, is now in process of negotiation between His Majesty in respect of Canada and the President of the United States of America for the purpose of the utilization of the water in the Great Lakes-St. Lawrence Basin; and

WHEREAS the proposed Canada-United States Agreement makes provision for the construction of certain works in the International Rapids Section of the St. Lawrence River, hereinafter referred to as the International Rapids Section, through which runs the international boundary between Canada and the United States of America, some of which will be used solely for navigation, hereinafter referred to as the navigation works; some of which will be used solely for the development of power, hereinafter referred to as the power works; and some of which will be used in common both for navigation and for the development of power, hereinafter referred to as the common works; and

WHEREAS it is intended that the Canadian share of the power developed in the International Rapids Section will be available to Ontario; and

WHEREAS it is desirable that an Agreement should be made between Canada and Ontario concerning the construction and use of the works in the International Rapids Section, the apportionment between them of

the costs thereof, and the use of the water available for the development of power; and

WHEREAS it is desirable to regulate and define the rights and obligations of Canada and Ontario in respect of diversions of water into the Great Lakes System, and in respect of the utilization of the flow of the waters of the Niagara River:

NOW THEREFORE THIS AGREEMENT WITNESSETH:

ARTICLE I

This Agreement is conditional upon the negotiation and ratification of the Canada-United States Agreement which provides for the construction of a Controlled Single Stage Project in the International Rapids Section as described in the Schedule which is attached to and made part of this Agreement.

ARTICLE II

Canada undertakes to provide on the Canadian side of the international boundary all navigation works, all common works, and certain of the power works, which power works are more particularly described in the Schedule, Part II, and, after completion, Canada will assume responsibility for the operation and maintenance of all such navigation and common works. Ontario will assume responsibility for the provision of any works which Ontario may require for power on the Canadian side of the international boundary, other than the power works which are more particularly described in the Schedule, Part II.

ARTICLE III

(a) At a date not later than the date of the first payment of the sum of twenty million dollars (\$20,000,000) under the provisions of Article XI, the Canadian power works in the International Rapids Section, which are described in the Schedule, Part II, and all lands connected therewith, will become the property of Ontario; and Ontario will be responsible for the operation and maintenance thereof; provided that, in the operation and maintenance of the property transferred to the Province under the provisions of this Article, Ontario undertakes that it will conform with the provisions of the Canada-United States Agreement and will refrain from doing any act inconsistent therewith.

(b) Prior to the vesting of the property in Ontario pursuant to paragraph (a) of this Article, Ontario will have the right to enter upon the works and lands mentioned in the Schedule for the purpose of carrying out the provisions of this Agreement, and the ownership of any works provided by Ontario will remain in Ontario. The rights given to Ontario by this paragraph will not be exercised unreasonably.

(c) In the event of Ontario failing to make on the due date any of the subsequent payments required by Article XI, and in the event of such default continuing for a period of one year, the power works and lands mentioned in paragraph (a) of this Article will cease to be the property of Ontario and will vest in Canada; provided that, after the property has so reverted in Canada the default may be cured by Ontario making the defaulted payment and any further payments which have become due. In that event, the power works and lands will again become the property of Ontario and all the provisions of this Agreement will have full force and effect as if no default had taken place.

ARTICLE IV

(a) Canada assumes responsibility for the provision of all lands required for the purposes of this Agreement and agrees to save Ontario harmless from any claims which may arise therefrom or in consequence of Canada's failure to provide sufficient lands for such purposes.

(b) Canada agrees that, in all cases in which a municipal body has suffered serious loss in tax revenue or has suffered serious impairment of security for debentures issued, by reason of the taking of a substantial proportion of its taxable property, equitable claims by such municipal bodies may be submitted for settlement by an arbitral tribunal established under the provisions of Article XIV. Such tribunal will have jurisdiction to entertain and determine such claims and Canada undertakes to pay any awards made by the tribunal thereunder. Such awards shall be paid to such persons or corporations in such manner and proportions as the Ontario Municipal Board may direct.

(c) Canada will assure to Ontario such lands as are required for power works, including lands required for electric switching structures, and such other lands as may be reasonably necessary for the proper operation and maintenance of the power development. Such lands will become the property of Ontario at the time provided in, and subject to the provisions of, Article III.

(d) In addition, and in the event that any lands useful for transmission lines have been acquired by Canada in consequence of transactions connected with works under this Agreement, Canada will make such of these lands as are required available without cost to Ontario for transmission purposes, provided that such use of the lands by Ontario does not interfere with their reasonable and early use by Canada for a specific purpose.

ARTICLE V

(a) (i) Ontario will be consulted as the plans and specifications of all common works in so far as those works may affect the development of

power, and of all the power works in Canada, and will be kept informed as to the progress thereof.

(ii) Canada will not approve

the plans and specifications of any common works unless Ontario has signified that it is satisfied as to their stability and adequacy for any purposes that are of interest to Ontario, or

the plans and specifications of any power works in Canada without the prior approval of Ontario; provided that Ontario's approval or signification as aforesaid will not be unreasonably withheld or delayed.

(iii) All the works mentioned in this paragraph will be constructed in conformity with the plans and specifications, in respect of which Ontario has signified its satisfaction or approval.

(b) Canada assumes responsibility for the design of all navigation and common works. The provision for the passage and for the regulation of water through all power structures and the stability and adequacy of power structures, in so far as they may affect navigation, will be subject to Canada's approval.

ARTICLE VI

In addition to the waters available to Ontario under Article XIII, Canada will make available to Ontario for the development of power all the share of the water in the International Rapids Section, as made available for use in Canada by the Canada-United States Agreement, being one-half of the water available for power purposes in the International Rapids Section exclusive of diversions into the Great Lakes System under the provisions of Article VIII of the Canada-United States Agreement, and Ontario will be deemed to be the owner of the Canadian share of water power in the International Rapids Section and will have, solely for power purposes, the perpetual right to the use, in common with Canada, of the common works.

ARTICLE VII

(a) Ontario assumes responsibility for all costs and charges on account of the Ogoki River diversion and the Long Lac diversion and undertakes to proceed with these diversions in accordance with commitments already made.

(b) Ontario undertakes to construct, pursuant to the provisions of Article IX of the Canada-United States Agreement, remedial works in the Niagara River, and to pay the costs thereof up to eight hundred and thirty-eight thousand four hundred and fifty dollars (\$838,450), and Canada undertakes to reimburse Ontario as accounts are rendered the costs in excess of that amount.

(c) Upon completion of the remedial works authorized under Article IX of the Canada-United States Agreement, Canada, without delay, will authorize such diversions of water above the Falls, for power purposes, in addition to the amounts specified in Article 5 of the Boundary Waters Treaty of 1909, as Canada is from time to time enabled to authorize under Article IX of the Canada-United States Agreement and Canada will promptly take any steps that may be necessary under the Canada-United States Agreement to enable Canada to authorize at all times the maximum permissible diversion of water for power.

ARTICLE VIII

Canada agrees that Ontario may make arrangements for the enjoyment and exercise by The Hydro Electric Power Commission of Ontario, of any of Ontario's rights and benefits under this Agreement.

ARTICLE IX

Ontario will furnish, at cost, such power as may from time to time be required by Canada for the operation of the navigation works and for other purposes of navigation in the International Rapids Section.

ARTICLE X

Canada undertakes that, on any International Boards or other bodies directing the design construction or operation of the works provided for in the Canada-United States Agreement or directing the regulation or control of the waters of the International Rapids Section of the St. Lawrence River for navigation and power, Ontario will at all times have adequate and acceptable representation.

ARTICLE XI

In consideration of the premises, and in addition to the obligations incurred under Article VII, Ontario will pay to Canada, in full payment for everything under this Agreement, the sum of sixty-four million one hundred and twenty-five thousand dollars (\$64,125,000), payable as follows:

- (a) twenty million dollars (\$20,000,000) one year after power is first developed and sold from the power works in Canada, or two years after completion of the common works and of the power works mentioned in the Schedule, Part II, whichever date is earlier;
- (b) three million eighty-two thousand five hundred dollars (\$3,082,500) per year for five years, commencing one year after the first payment aforesaid;
- (c) five million seven hundred and forty-two thousand five hundred dollars (\$5,742,500) per year for five years, commencing six years after the first payment aforesaid.

ARTICLE XII

Interest will be payable by Canada and Ontario on any arrears of payments due under the provisions of Article VII and Article XI at the rate of three and one-quarter per cent per annum. Interest will be calculated from and after the expiration of thirty days after the due date in the case of payments due under Article XI and from and after the expiration of sixty days after the rendering of the accounts pursuant to the provisions of Article VII.

ARTICLE XIII

In addition to the rights secured to Ontario by Article VI, Canada undertakes that, with respect to waters diverted by Ontario into the Great Lakes Basin, Ontario will have the right to the use of additional waters, equivalent in quantity to the waters so diverted, for the development of power from the point or points of diversion to the easterly end of the International Rapids Section.

ARTICLE XIV

(a) In the event of Canada and Ontario failing to agree on the interpretation of any part of this Agreement or on any matter arising therefrom, either party shall have the right to refer the matter to an arbitral tribunal.

(b) Each arbitral tribunal shall consist of one person chosen by Canada, one person chosen by Ontario and one person chosen by agreement between Canada and Ontario. If they fail to agree, the third member of the tribunal shall be chosen by the Chief Justice of Canada.

(c) Both parties agree to facilitate the constitution and functioning of arbitral tribunals and to accept their decisions.

(d) The procedure in any arbitration under the provisions of this Article will be determined by agreement between the parties thereto.

(e) If by reason of a dispute between the parties any payment provided for in any Article under this Agreement is delayed, the land will not vest or re-vest pending the settlement of such dispute, and the payment of interest on any payment delayed by such arbitration proceedings will be in the disposition of the arbitral tribunal.

ARTICLE XV

This Agreement is made subject to its approval by the Parliament of Canada and by the Legislature of the Province of Ontario. If, however, the Canada-United States Agreement has not come into force within three years from the date of this Agreement, either party hereto may, by written notice to the other, forthwith cancel this Agreement.

IN WITNESS WHEREOF the Right Honourable W. L. MACKENZIE KING and the Honourable CLARENCE D. HOWE have hereunto set their hands on behalf of Canada and the Honourable MITCHELL F. HEPBURN and the Honourable HARRY C. NIXON have hereunto set their hands on behalf of Ontario; both upon the nineteenth day of March, in the year of Our Lord one thousand nine hundred and forty-one.

W. L. MACKENZIE KING

C. D. HOWE

M. F. HEPBURN

H. C. NIXON

SCHEDULE TO THE CANADA-ONTARIO AGREEMENT

(See Articles I, II, III, V and XI)

PART I

The scheme of development shall conform generally to that known as a Controlled Single Stage Project, described in the Annex to the Canada-United States Agreement the main features of which are as follows:

- (1) A control dam in the vicinity of Iroquois Point.
- (2) A dam in the Long Sault Rapids at the head of Barnhart Island and two power houses, one on either side of the international boundary, at the foot of Barnhart Island.
- (3) A side canal, with one lock on the United States mainland to carry navigation around the control dam and a side canal, with one guard gate and two locks, on the United States mainland south of Barnhart Island to carry navigation from above the main Long Sault Dam to the river south of Cornwall Island. All locks to provide 30 ft. depth of water on the mitre sills and to be of the general dimensions of those of the Welland Ship Canal. All navigation channels to be excavated to 27 ft. depth.
- (4) Dykes, where necessary, on the United States and Canadian sides of the international boundary, to retain the pool level above the Long Sault Dam.
- (5) Channel enlargement from the head of Galop Island to below Lotus Island designed to give a maximum velocity in the navigation channel south of Galop Island not exceeding four feet per second at any time.
- (6) Channel enlargement between Lotus Island and the control dam and from above Point Three Points to below Ogden Island designed to give a maximum mean velocity in any cross-section not exceeding two and one-quarter feet per second with the flow and at the stage to be permitted on the 1st of January of any year, under regulation of outflow and levels of Lake Ontario.
- (7) The necessary railroad and highway modifications on either side of the international boundary.
- (8) The necessary works to permit the continuance of 14 ft. navigation on the Canadian side around the control dam and from the pool above the Long Sault Dam to connect with the existing Cornwall Canal.
- (9) The rehabilitation of the towns of Iroquois and Morrisburg, Ontario.

All the works in the pool below the control dam shall be designed to provide for full Lake Ontario level but initially the pool shall be operated at maximum elevation 238·0.

PART II

The power works which Canada undertakes to provide in Article II shall comprise generally, all excavation, disposal and fill, unwatering, headrace, tailrace, sluiceways, concrete bulkheads, embankments, railway and roadway connections incidental to the power development and the power house substructure, headworks and superstructure, all complete, ready for the installation of equipment. They are to be constructed according to the plans and specifications referred to in Article V of this Agreement.

The power house substructure shall include headworks, gates, racks, unwatering gates, gate checks, all gate-operating equipment, intakes, water passages, draft tubes, tailrace piers and deck, all covers for openings, railings, gratings, ladders, drains, piping, conduit, pit liners, speed rings, throat rings, draft-tube liners, scroll cases (whether moulded in concrete or of cast or plate steel), and all parts embedded in the substructure incidental thereto or connected therewith. The substructure shall be of sufficient dimensions to accommodate all equipment and apparatus including transformers and shall provide the necessary space for assembly, operation and maintenance.

PART II

CORRESPONDENCE BETWEEN THE GOVERNMENTS OF
CANADA AND THE UNITED STATES, 1938-1941, CON-
CERNING THE GREAT LAKES-ST. LAWRENCE BASIN
DEVELOPMENT.

No. 3

*From The Secretary of State of the United States, Washington,
To The Canadian Minister to the United States, Washington.*

DEPARTMENT OF STATE

WASHINGTON, May 28, 1938.

SIR,

I have the honor to refer to my note of March 17, 1938, and to my memorandum of the same date in which I expressed the conviction of the United States Government that the mutual needs of Canada and the United States could be best provided for through a jointly planned development of their extraordinary natural resources in the Great Lakes-St. Lawrence River basin. I stated that this Government is ready and eager to enter into and push to a speedy conclusion negotiations for a mutually satisfactory agreement directed to this objective.

I now desire to lay before you certain additional proposals which, in the opinion of the United States Government, should make it possible to reach an immediate agreement providing for the early initiation of the undertaking in accordance with a program designed to give full recognition to a possible divergence of interest between the two countries with reference to the timing of specific works.

As a basis for discussion, I am transmitting to you herewith an informal and tentative draft of a proposed general treaty establishing what is, in effect, a broad plan covering the future utilization of the Great Lakes-St. Lawrence Basin to assure the maximum advantages to both peoples. In this draft it has been our purpose to embody terms assuring recognition of the special needs and problems of the areas intimately concerned on both sides of the boundary.

The United States Government believes that the best interests of both peoples would be served by the immediate consummation of an agreement along the general lines of this treaty draft. I may add that in its preparation special consideration was given to the views of the Government of the Province of Ontario, as expressed in official communications recently made public in Canada, to the effect that it is

not ready to assume any responsibility in connection with the project until its market requires the power.

In brief, the proposed treaty would (a) enable the United States to go forward immediately with the International Rapids Section link in the proposed St. Lawrence deep waterway and the incidental power development; (b) defer Canada's responsibility for completing its share of the waterway for a sufficient time to assure the readiness of the Ontario power market to absorb its share of the power; (c) provide for an international commission to develop plans and advise the two Governments in a program to promote the most advantageous use of the entire Great Lakes-St. Lawrence resource; (d) assure the immediate undertaking under the supervision of this commission of the proposed remedial works to preserve the scenic beauty of Niagara Falls; (e) permit the Province of Ontario to go forward with its plans for diversions from the Albany River basin into the Great Lakes and utilize such additional water for power at Niagara; (f) make available considerable additional Niagara power to each country for development at will; and (g) enable the proposed commission to proceed immediately with the preparation of comprehensive plans for more efficient use of the resources of the Niagara River.

In my memorandum of March 17, 1938, reasons were given why the Government of the United States could not consent to additional importations of hydroelectric power on a withdrawable basis unless provision were simultaneously made for the development of an alternative and equally economical domestic supply to be available when the imported power was withdrawn. Under the proposed treaty such a domestic supply would be made available through the development of the American share of the International Rapids Section and the Government of the United States would therefore be prepared to approve such additional imports of power from Canada, on a temporary basis and without obligation on the part of either party to continue, as Canada might see fit to permit to be exported.

Certain observations on the proposals which have been incorporated in the tentative treaty draft will serve to clarify the extent to which they are designed to meet the needs of both countries.

1. The United States would immediately undertake the development of the International Rapids Section of the St. Lawrence River, in accordance with the provisions of the treaty, and would complete all proposed works except the Canadian power house superstructures and their equipment. Thus, the next important step in the deep waterway project would be assured without requiring the Government of Canada to undertake the immediate completion of its share of the project or the additional expenditure associated therewith.

2. The State of New York would be able to proceed immediately with the development of the 1,100,000 horsepower of cheap hydro-electric power which constitute the American share of the power available in the International Rapids Section of the St. Lawrence River. This additional power supply at a cost of less than \$8 per horsepower year would thus be assured to meet its future market requirements.

3. The Province of Ontario would be assured an equivalent reserve of cheap St. Lawrence power, available to meet its requirements whenever the supplies provided in the present contracts with Quebec companies shall have been absorbed, without the assumption of any financial obligation until it needs the power. This would guarantee the Province of Ontario an economical power supply for many years to come. Furthermore, the Province would be relieved of the necessity of anticipating future market requirements by more than two years because, after completion by the United States of other works in the International Rapids Section, such a period would be ample for the construction of the required power house facilities.

4. The civic interests in both countries concerned with the preservation of the scenic beauty of the Niagara Falls and Rapids would be assured the immediate undertaking of the remedial works to distribute the waters of the Niagara River in such a way as to ensure unbroken crestlines on both the American and Canadian Falls, as recommended in the 1928 report of the Special International Niagara Board and embodied in the unratified 1929 Convention and Protocol between the two countries.

5. The Province of Ontario would be assured the opportunity of proceeding with its projects designed to divert the waters of certain tributaries of the Albany River into the Great Lakes-St. Lawrence basin and would acquire the right to use such waters for additional power development at Niagara and eventually in the International Rapids Section of the St. Lawrence River. Under present plans this would make an additional 100,000 to 150,000 horsepower at Niagara as soon as the diversion projects shall have been completed.

6. Both countries would be assured not only the immediate possibility of developing considerable additional supplies of very cheap hydroelectric power at Niagara but also the initiation of the first scientific approach to the development of a comprehensive plan for the utilization of the Niagara River. Such a plan would provide both for enhancement of scenic spectacle and for future power development, which would prove an important contribution to economic expansion on both sides of the boundary.

7. The important economic areas tributary to the Great Lakes-St. Lawrence basin on both sides of the border would be assured of the realization of their desire that ocean navigation be brought to the heart of the continent while, at the same time, the period within which completion of the deep waterway would be contemplated would be sufficient to provide a natural growth of traffic assuring the railroads the ability to adjust themselves to the new transportation agency without financial hardship.

8. Both countries would be assured a continuing basis of cooperation in the planned utilization of one of the world's greatest natural resources. Provision would be made for the prompt solution on a sound technical basis of all problems, including those of navigation, power, lake levels, diversions from and into the basin, et cetera, in terms of the mutual interests of the two peoples.

May I express the hope that the Government of Canada will find in the proposals herein outlined a satisfactory basis for the undertaking at an early date of negotiations for a treaty and the expediting of such negotiations to the end that the interests of both peoples in the Great Lakes-St. Lawrence resource may be most effectively served?

I shall appreciate being informed of the views of your Government as soon as may be conveniently possible.

Accept, Sir, the renewed assurances of my highest consideration.

CORDELL HULL.

The Honourable SIR HERBERT MARLER, P.C., K.C.M.G.,
Minister of Canada.

PREAMBLE

The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British dominions beyond the seas, Emperor of India, in respect of the Dominion of Canada,

Recognizing the Great Lakes-St. Lawrence basin as a great natural resource of the two peoples, offering them enormous advantages in the way of economical transportation and cheap electric power, and

Taking account of the fact that the full advantages to be derived by the two peoples from this resource can only be secured to them through its cooperative development under a comprehensive plan based on full recognition of the mutual interests involved, and

Recognizing that the completion of a deep waterway, not less than twenty-seven feet in depth, for navigation from the interior of the Continent of North America through the Great Lakes and the St. Lawrence River to the sea with the development of the water power incident thereto, would result in marked and enduring benefits to the agricultural, manufacturing and commercial interests of both countries, and

Considering further that the project has been studied and found feasible by the International Joint Commission, the Joint Board of Engineers, and by national advisory boards, and

Recognizing the desirability of effecting a permanent settlement of the questions raised by the diversion of waters from or into the Great Lakes System, and

Recognizing the primary obligation of the Governments of the United States and Canada to preserve and enhance the scenic beauties of the Niagara Falls and River, as recommended by the Special International Niagara Board, and, consistent with that obligation, to provide for the most efficient utilization and equitable apportionment of all water available for the development of hydro-electric power in that area,

Have decided to conclude a treaty for the above-mentioned purposes, and to that end have named as their respective plenipotentiaries:

The President of the United States of America:

His Majesty the King of Great Britain, Ireland and the British dominions beyond the seas, Emperor of India, for the Dominion of Canada:

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles:

PRELIMINARY ARTICLE

For the purposes of the present Treaty, unless otherwise expressly provided, the expression:

- (a) "International Joint Commission" means the commission established pursuant to the provisions of the Boundary Waters Treaty of 1909;
- (b) "Joint Board of Engineers" means the board appointed pursuant to an agreement between the Governments following the recommendation of the International Joint Commission, dated the 19th December, 1921;
- (c) "Great Lakes System" means Lakes Superior, Michigan, Huron (including Georgian Bay), Erie and Ontario, and the connecting waters, including Lake St. Clair;
- (d) "St. Lawrence River" means the river known by that name and includes the river channels and the Lakes forming parts of the river channels from the outlet of Lake Ontario to the sea;
- (e) "International boundary" means the international boundary between the United States of America and Canada as established by existing treaties;
- (f) "International Section" means that part of the St. Lawrence River through which the international boundary line runs;
- (g) "Canadian Section" means that part of the St. Lawrence River which lies wholly within Canada and which extends from the easterly limit of the International Section to the high seas;
- (h) "International Rapids Section" means the easterly portion of the International Section extending from Chimney Point to the village of St. Regis;
- (i) "Governments" means the Government of the United States of America and the Government of the Dominion of Canada;
- (j) "Countries" means the United States of America and Canada;
- (k) "Special International Niagara Board" means the board appointed by the two Governments in 1926 to ascertain and recommend ways and means to preserve the scenic beauty of the Niagara Falls.

ARTICLE I

The High Contracting Parties agree to establish and maintain a Great Lakes-St. Lawrence Basin Commission, hereinafter referred to as the Commission, consisting of not more than ten members of whom an equal number shall be appointed by each Government. The duties of the Commission shall be:

- (a) To prepare plans for the construction of works in the International Rapids Section in accordance with one of the projects described in the Report of the Joint Board of Engineers with Appendices, dated July 13, 1927, with such modifications as may be agreed upon by the Governments, provided that such modifications do not increase the proposed total cost of the project as estimated in that Report, with a view to providing a navigation channel, not less than twenty-seven feet deep, together with the most suitable works for the development of power;
- (b) Upon the approval of the plans by the Governments, to prepare a schedule allocating the construction of the recommended works in the International Rapids Section to the Governments on such a basis that each Government shall construct the works within its own territory or an equivalent proportion of the works in the International Rapids Section;
- (c) To approve all contracts entered into on behalf of either Government for the recommended works in the International Rapids Section;
- (d) To supervise the construction of the works and to submit reports to the Governments from time to time, and at least once each calendar year, on the progress of the works;
- (e) Upon the completion of the works, to certify to the Governments that they meet the specifications of the plans drawn by the Commission and approved by the Governments;
- (f) To perform the other duties assigned to it in this Treaty;
- (g) To serve as an advisory body to the Governments for the purpose of co-ordinating all plans for the comprehensive utilization of the entire Great Lakes-St. Lawrence Basin for navigation and power as envisaged in this Treaty.

The Commission shall have the authority to employ engineers, lawyers, experts and employees generally, and to make such other expenditures as may be necessary to carry out the duties herein set forth. It shall have the authority to avail itself of the services of such governmental agencies, officers and employees of either country as may be made available.

The Governments agree to permit the entry into their respective countries, within areas immediately adjacent to the Niagara River and the International Section to be delimited by an exchange of notes, of personnel employed by the Commission or employed in the construction of the works, and to exempt such personnel from the operation of their immigration laws and regulations within the areas to be delimited. They also agree within such areas to exempt from customs duties, excise or sales taxes, or other imposts, all supplies and materials to be used in connection with the construction of the works, as well as all supplies and materials purchased by the Commission for its official use.

The Governments shall, by an exchange of notes, prescribe rules and regulations for the conduct of the Commission. They may, by the same means, extend or abridge its powers and duties, reduce the number of members (provided that there must always be an equal number appointed by each Government) and, upon completion of its duties, terminate its existence.

ARTICLE II

With respect to works in the International Rapids Section, the Government of Canada agrees, in accordance with plans prepared by the Commission and approved by the Governments,

- (a) to construct or arrange for the construction of the works allocated to Canada by the Commission and to operate and maintain the works situated in the territory of Canada;
- (b) to construct or arrange for the construction of the works required for rehabilitation on the Canadian side of the boundary.

The Government of Canada agrees further that, not later than six years after the date of the initiation of construction of Canadian works for additional power under this treaty and, in any event, not later than December 31, 1949, it will provide for the necessary deepening of the New Welland Ship Canal, and for the completion of the essential links in the Canadian Section of the deep waterway to the sea, including canals of the required depth in the Soulanges and Lachine areas of the St. Lawrence River.

ARTICLE III

With respect to works in the International Rapids Section, the Government of the United States agrees, in accordance with the plans prepared by the Commission and approved by the Governments,

- (a) to construct or arrange for the construction of the works allocated to the United States by the Commission; and to operate and maintain the works situated in the territory of the United States;

- (b) to construct or arrange for the construction of the works required for rehabilitation on the United States side of the international boundary;
- (c) to provide, as required by the progress of the works, funds for the construction of all works in the International Rapids Section except the following:
 - (1) Power house superstructures, machinery and equipment for the development of power;
 - (2) Works required for rehabilitation on the Canadian side of the international boundary; and
 - (3) Any side canals and locks that may be constructed on the Canadian side of the international boundary.

The Government of the United States agrees further to provide, not later than the date of the completion of Canadian links in the deep waterway, for the completion of the works in the International Rapids Section of the St. Lawrence River, and of the works in the Great Lakes system above Lake Erie which will constitute essential links in the deep waterway to the sea.

ARTICLE IV

The High Contracting Parties agree:

- (a) that they may, in conformity with the general plans adopted for the project in the International Rapids Section, construct or arrange for the construction in their respective territories of such power houses, machinery and equipment as may be desired for the development of water power and at such time or times as may be most suitable in terms of their respective power requirements;
- (b) that, in view of the need for co-ordination of the plans prepared by the Commission for general works in the International Rapids Section with plans for the development of power in the respective countries, the Commission shall arrange with any agency in either country, which may be authorized to develop power in the International Rapids Section, for the engineering services necessary for the designing of the power works;
- (c) that, except as modified by the provisions of Article VIII (d), the quantity of water diverted for the production of power in the International Rapids Section shall be equally divided between the two countries; and, upon completion of the works, the quantity of water utilized during any daily period for the production of power on either side of the international boundary in the International Rapids Section shall

not exceed one-half of the flow of water available for that purpose during such period;

- (d) that, during the construction and upon the completion of the works provided for in the International Rapids Section, the flow of water out of Lake Ontario into the St. Lawrence River shall be controlled and the flow of water through the International Section shall be regulated so that the navigable depths of water for shipping in the Harbor of Montreal and throughout the navigable channel of the St. Lawrence River below Montreal, as such depths now exist or may hereafter be increased by dredging or other harbor or channel improvements, shall not be injuriously affected by the construction or operation of such works.

ARTICLE V

The High Contracting Parties agree, that the construction of works under the present treaty shall not confer upon either of them proprietary rights, or legislative, administrative or other jurisdiction in the territory of the other, and that the works constructed under the provisions of this treaty shall constitute a part of the territory of the country in which they are situated.

ARTICLE VI

The High Contracting Parties agree that they may, with the approval of the Commission, proceed at any time to construct, within their own respective territories, alternative canal and channel facilities for navigation in the International Section or in waters connecting the Great Lakes, and that they shall have the right to utilize for this purpose such water as may be necessary for the operation thereof.

ARTICLE VII

The High Contracting Parties agree that the rights of navigation accorded under the provisions of existing treaties between the United States of America and His Britannic Majesty shall be maintained notwithstanding the provisions for termination contained in any of such treaties, and declare that these treaties confer upon the citizens or subjects and upon the ships, vessels and boats of each High Contracting Party, rights of navigation in the St. Lawrence River, and the Great Lakes System, including the canals now existing or which may hereafter be constructed.

Nothing in this Article or in any other Article of this Treaty shall be construed as infringing or impairing, in any way, the sovereignty of the United States of America over Lake Michigan.

ARTICLE VIII

The High Contracting Parties, recognizing their common interest in the preservation of the levels of the Great Lakes System, agree:

- (a) 1. That the diversion of water from the Great Lakes System, through the Chicago Drainage Canal, shall be reduced by December 31, 1938, to the quantity permitted as of that date by the decree of the Supreme Court of the United States of April 21, 1930;
2. In the event of the Government of the United States proposing, in order to meet an emergency, an increase in the permitted diversion of water and in the event that the Government of Canada takes exception to the increase, the matter shall be submitted, for final decision, to an arbitral tribunal which shall be empowered to authorize, for such time and to such extent as is necessary to meet such emergency, an increase in the diversion of water beyond the limits set forth in the preceding sub-paragraph and to stipulate such compensatory provisions as it may deem just and equitable; the arbitral tribunal shall consist of three members, one to be appointed by each of the Governments, and the third, who will be the Chairman, to be selected by the Governments;
- (b) That no diversion of water, other than the diversion referred to in paragraph (a) of this Article, from the Great Lakes System or from the International Section to another watershed shall hereafter be made except by authorization of the International Joint Commission;
- (c) That each Government in its own territory shall measure the quantities of water which may at any point be diverted from or added to the Great Lakes System, and shall place the said measurements on record with the other Government semi-annually;
- (d) That, in the event of diversions being made into the Great Lakes System from watersheds lying wholly within the borders of either country, or in the event of the diversion of rivers into the International Section above their present points of confluence, the exclusive rights to the use of waters equivalent in quantity to any waters so diverted shall, notwithstanding the provisions of Article IV (c) be vested in the country diverting such waters, and the quantity of water so diverted shall be at all times available to that country for use for power below the point of diversion, so long as it constitutes a part of boundary waters;

- (e) That the Commission shall undertake a study of the desirability of compensation and regulatory works in the Great Lakes System; and, upon the approval by the Governments of any such works, shall prepare plans for their construction and recommend to the Governments an equitable allocation of their cost. The Governments shall make arrangements by an exchange of notes for the construction of such works as they may agree upon.

ARTICLE IX

The High Contracting Parties, recognizing their common interest in preserving the scenic beauty of the Niagara Falls and Rapids, through preventing erosion and ensuring unbroken crestlines, and the prescribing of limits to the diversion of water from the River agree:

- (a) That the Commission shall prepare and submit to the Governments plans for works in the Niagara River to distribute and control the waters thereof to ensure unbroken crestlines on both the American and the Canadian Falls and to preserve and enhance their scenic beauty, taking into account the recommendations of the Special International Niagara Board. The Governments, after the adoption of final plans for the project in the International Rapids Section, shall make arrangements by an exchange of notes for the construction of such works in the Niagara River as they may agree upon, including provision for temporary diversions of the waters of the Niagara River for the purpose only of facilitating their construction. The cost of such works in the Niagara River shall be borne by the Governments in equal moieties.
- (b) That, upon the completion of the works authorized in this Article, diversions of the waters of the Niagara River above the Falls from the natural course and streams thereof additional to the amounts specified in Article 5 of the Boundary Waters Treaty of January 11, 1909, may be authorized and permitted by the respective governments of the United States and Canada to the extent and in the manner hereinafter provided:
 - (1) The United States may authorize and permit additional diversion within the State of New York of the waters of said river above the Falls for power purposes, in excess of the amount specified in Article 5 of the Boundary Waters Treaty of January 11, 1909, not to exceed in the aggregate a daily diversion at the rate of five thousand cubic feet of water per second;
 - (a) Canada may authorize and permit additional diversion within the Province of Ontario of the waters of

said river above the Falls for power purposes, in excess of the amount specified in Article 5 of the Boundary Waters Treaty of January 11, 1909, not to exceed in the aggregate a daily diversion at the rate of five thousand cubic feet of water per second;

- (c) That, upon installation of the works authorized in this Article, the Commission shall proceed immediately to test such works and to report and certify to the Governments the effect of such works under a wide range of conditions and to make recommendations respecting diversions of water from Lake Erie and the Niagara River with particular reference to preserving perpetually the scenic beauty of the Falls and Rapids, to the requirements of navigation in the Great Lakes System and to the equal and equitable diversion and efficient utilization of the waters. On the basis of the Commission's reports and recommendations the High Contracting Parties may by an exchange of notes and concurrent legislation determine the methods by which these purposes may be attained.

ARTICLE X

The High Contracting Parties agree:

- (a) That each Party is hereby released from responsibility for any damage or injury to persons or property in the territory of the other, which may be caused by any action authorized or provided for by this Treaty;
- (b) That each Party will assume the responsibility for and expense involved in the acquisition of any lands or interests in land in its own territory which may be necessary to give effect to the provisions of this Treaty.

ARTICLE XI

This Treaty shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in Washington or in Ottawa as soon as practicable and the Treaty shall come into force on the day of the exchange of ratifications.

In faith whereof the respective plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at....., the.....day
of.....in the year of our Lord.....

(SEAL)

(SEAL)

No. 4

*From The Canadian Minister to the United States, Washington,
To The Secretary of State of the United States, Washington*

December 26, 1939.

SIR,

I have the honour to refer to your note of May 28, 1938, to my predecessor, transmitting an informal and tentative draft of a proposed general Treaty providing for the development of the Great Lakes-St. Lawrence Basin.

The general question has recently been under detailed consideration by the Canadian Government, and discussions have taken place with representatives of the Province of Ontario on the question of power development in which Ontario is primarily concerned.

Before reaching a conclusion upon the broader questions of policy involved the Canadian Government consider that it would be desirable that a number of questions of detail should be taken up by representatives of the United States and Canada. The Canadian Government would be pleased to make arrangements for a meeting in Ottawa in the near future between members of the public services of the two countries and their technical advisers for the purpose of clarifying a number of the issues involved. The meeting would be entirely informal and preparatory to a more comprehensive discussion.

I should be glad if I might be furnished with an expression of the views of the Government of the United States upon the foregoing.

I have the honour to be

With the highest consideration,

Sir,

Your most obedient,

humble servant,

LORING C. CHRISTIE.

The Honourable CORDELL HULL,
Secretary of State of the United States,
Washington, D.C.

No. 5

*From The Secretary of State of the United States, Washington,
To The Canadian Minister to the United States, Washington*

January 3, 1940.

SIR,

I have the honor to acknowledge the receipt of your note of December 26, 1939, relative to the proposed general treaty providing for the development of the Great Lakes-St. Lawrence Basin. I note especially that the Canadian Government considers it desirable that a number of questions be taken up by representatives of the United States and Canada, and that it suggests a meeting in Ottawa in the near future between members of the public services of the two countries and their technical advisers for the purpose of clarifying a number of the issues involved, such meeting to be informal and preparatory in character.

I refer to the informal conversations which have taken place following the receipt of your note between officers of the Department and you concerning the earliest date on which the suggested conversations could take place in Ottawa, and I am happy to state that arrangements have been made to send a group to Ottawa at the end of this week.

The group will be composed of Messrs. Berle and Hickerson, of this Department, and Mr. Leland Olds, Chairman of the Federal Power Commission. They will arrive in Ottawa on January 7th next to take part in the conversations proposed in your note.

I avail myself of this opportunity to wish you a very Happy New Year.

Accept, Sir, the renewed assurances of my highest consideration.

CORDELL HULL.

The Honourable LORING C. CHRISTIE,
Minister of Canada.

No. 6

*From The Secretary of State of the United States, Washington,
To The Canadian Minister to the United States, Washington*

October 14, 1940.

SIR,

I have the honor to refer to the conversations which have taken place recently between officials of the Governments of the United States and Canada in regard to the desirability of taking immediate steps looking to the early development of certain portions of the Great Lakes-

St. Lawrence Basin project. These conversations have indicated that there is apprehension in both countries over the possibility of a power shortage; these apprehensions have been heightened by the necessity for increased supplies of power in consequence of Canada's war effort and of the major national defense effort in the United States.

In the light of these considerations the Government of the United States proposes that each Government appoint forthwith a Temporary Great Lakes-St. Lawrence Basin Committee consisting of not more than five members. These two Committees would cooperate in preliminary engineering and other investigations for that part of the project which is located in the International Rapids Section of the St. Lawrence River, in order that the entire project may be undertaken without delay when final decision is reached by the two Governments. The Government of the United States is prepared to advance the necessary funds to \$1,000,000 to pay for these preliminary engineering and other investigations on the understanding that their cost shall ultimately be prorated by agreement between the two Governments.

Meanwhile, to assist in providing an adequate supply of power to meet Canadian defense needs and contingent upon the Province of Ontario's agreeing to provide immediately for diversions into the Great Lakes System of waters from the Albany River Basin which normally flow into Hudson Bay, the Government of the United States will interpose no objection, pending the conclusion of a final Great Lakes-St. Lawrence Basin agreement between the two countries, to the immediate utilization for power at Niagara Falls by the Province of Ontario of additional waters equivalent in quantity to the diversions into the Great Lakes Basin above referred to.

I shall be glad if you will let me know if your Government is in accord with the foregoing proposals.

Accept, Sir, the renewed assurances of my highest consideration.

ADOLF A. BERLE, JR.,

For the Secretary of State.

The Honourable LORING C. CHRISTIE,
Minister of Canada.

No. 7

*From The Canadian Minister to the United States, Washington,
To The Secretary of State of the United States, Washington.*

OCTOBER 14, 1940

SIR,

I have the honour to refer to your note of October 14, in which you proposed that the Government of Canada and the United States take immediate steps looking to the early development of certain portions of the Great Lakes-St. Lawrence Basin project.

I am instructed to inform you that the Canadian Government is in accord with the proposals which you have made.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

LORING C. CHRISTIE

The Honourable CORDELL HULL,
Secretary of State of the United States,
Washington, D.C.

No. 8

*From The Canadian Minister to the United States, Washington,
To The Secretary of State of the United States, Washington.*

OCTOBER 31, 1940

SIR,

I have the honour to refer to the third paragraph of your note of October 14 concerning the Great Lakes-St. Lawrence Basin project, in which you state that to assist in providing an adequate supply of power to meet Canadian defence needs and contingent upon the Province of Ontario's agreeing to provide immediately for diversions into the Great Lakes System of waters from the Albany River Basin which normally flow into Hudson Bay, the Government of the United States would interpose no objection, pending the conclusion of a final Great Lakes-St. Lawrence Basin agreement between the two countries, to the immediate utilization for power at Niagara Falls by the Province of Ontario of additional waters equivalent in quantity to the diversions into the Great Lakes Basin above referred to.

I am instructed to inform you that the Canadian Government has received appropriate assurances that the Hydro-Electric Power Com-

mission of Ontario is prepared to proceed immediately with the Long Lac-Ogoki diversions and that this has been approved by the Government of the Province.

The Canadian Government is therefore giving appropriate instructions to authorize the additional diversion of 5,000 cubic feet per second at Niagara by the Hydro-Electric Power Commission of Ontario.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

LORING C. CHRISTIE

The Honourable CORDELL HULL,
Secretary of State of the United States,
Washington, D.C.

No. 9

*From the Secretary of State of the United States, Washington,
To the Canadian Minister to the United States, Washington.*

November 7, 1940.

SIR,

I have the honor to acknowledge the receipt of your Note No. 340 of October 31, 1940, stating that the Hydro-Electric Power Commission of Ontario is prepared to proceed immediately with the Long Lac-Ogoki diversions of waters from the Albany River Basin into the Great Lakes System and that this action has been approved by the Government of the Province.

I note also that the Canadian Government is giving appropriate instructions to authorize the additional diversion of 5,000 cubic feet per second of water at Niagara Falls by the Hydro-Electric Power Commission of Ontario.

Accept, Sir, the renewed assurances of my highest consideration.

ADOLF A. BERLE, Jr.,

For the Secretary of State.

The Honourable
LORING C. CHRISTIE,
Minister of Canada.

No. 10

*From The Secretary of State for External Affairs, Ottawa,
To The United States Minister to Canada, Ottawa.*

OTTAWA, March 5, 1941.

SIR,

I have the honour to refer to certain questions which have arisen in the course of the St. Lawrence Waterway negotiations, and which we have discussed recently.

2. As you are aware, my colleagues and I have been giving prolonged consideration to the problems presented by the St. Lawrence Waterway project. We have noted the progress made in the preparation of the engineering plans for the international section and in the drafting of the general agreement. There is, however, one consideration of a fundamental character to which we desire to call attention.

3. The growing intensity of the war operations and the apprehension that still more serious perils will have to be faced in the very near future, necessitate the most careful examination of any proposed expenditure from the point of view of public need and in the light of war requirements.

4. In existing circumstances, the Canadian Government desires to know whether the Government of the United States is of the opinion, in view of the position in Canada, and, of course, the position in the United States as well, that the project, as outlined in the State Department's proposals of 1936 and 1938, and under consideration since that time, should now be proceeded with.

5. We have, of course, been fully aware of the desire of the Government of the United States to have a treaty or agreement respecting the St. Lawrence Waterway concluded at as early a date as possible, and negotiations, which have been carried on more or less continuously for some time past, have had in view the desire on our part to arrive, at the earliest possible date, at terms of agreement which would be mutually advantageous. We are also aware of the pronouncements, which have been made from time to time by the President, respecting the added emphasis given by the war to the importance alike of power and navigation developments in the Great Lakes-St. Lawrence Waterway project. We are also duly appreciative of the agreement recently reached between our respective Governments, whereby the Province of Ontario has obtained the right to the immediate use of

additional power at Niagara, and the diversion of the waters of the Ogoki and Long Lac Rivers into Lake Superior, in consideration of which, authority as given for the immediate investigation by United States engineers of the project in the international section of the St. Lawrence River in Ontario, in order to enable work of future development to proceed with the least possible delay, once an agreement between the two Governments, respecting the St. Lawrence development was concluded.

6. We would naturally be inclined to view with favour power or navigation developments which the United States may deem necessary to the prosecution of measures calculated to aid Great Britain, Canada and other parts of the British Commonwealth of Nations in the present war, or to further the security of the United States itself against possible future events, which, at the moment, cannot be foreseen, but of which in times like the present full account must be taken. We realize that the Government of the United States will be as solicitous as our own Government to appraise the project at the present time in terms of its contribution to the efforts which are being put forward by our respective countries to preserve and to restore freedom.

7. It is from this point of view and in this spirit that we would ask that the St. Lawrence project be again reviewed by the Government of the United States before an agreement or treaty be finally entered into.

Accept, Sir, the renewed assurances of my highest consideration.

W. L. MACKENZIE KING,
Secretary of State for External Affairs.

The United States Minister to Canada,
Legation of the United States of America,
Ottawa, Canada.

No. 11

*From the United States Minister to Canada, Ottawa,
To the Secretary of State for External Affairs, Ottawa.*

OTTAWA, March 10, 1941.

SIR,—

I lost no time in bringing to the attention of my Government your note of March 5 in regard to the St. Lawrence waterway negotiations. In view of the importance of the question you raised, the matter was laid before the President, and I have been instructed by way of reply, to transmit the following personal message from him to you:

"I have given careful consideration to your recent request that in view of the growing intensity of current war operations and the apprehension over perils which may have to be faced in the near future, the Government of the United States review the St. Lawrence project and give you an indication of its views as to whether, in the existing circumstances, this project as outlined in the State Department's proposals of 1936 and 1938 should not be proceeded with.

"May I say at the outset that I am aware of Canada's increasing war effort and I readily agree that it must have first call upon your country's resources and man power. I also agree that in view of the existing situation the most careful examination of any proposed expenditure is necessary from the point of view of the public need and in the light of defense requirements.

"With these considerations in mind, the Government of the United States has as you requested reviewed the St. Lawrence project. We have welcomed this occasion to review the project because of the fact that our own defense program renders it desirable that all public expenditures in the United States be weighed in the light of considerations similar to those set forth in your communication. The Government of the United States is engaged in a great defense program. It is determined to supply such aid in material to Great Britain, the members of the Commonwealth and their allies as may be necessary to enable them to bring the war to a successful termination. Simultaneously our own defenses are being strengthened to the extent necessary to prevent any foe from menacing the security of this hemisphere. It is indispensable that all public projects contemplated by the Government of the United States be considered from the standpoint of their relationship to these supreme objectives.

"The Government of the United States regards the Great Lakes-St. Lawrence basin project as directly associated with the accomplishment of the foremost national objectives of this Government. It believes that the project should be proceeded with and that construction should commence at the earliest possible moment. It regards the construction of this project as a matter of vital necessity.

"You refer to the engineering investigation now being conducted in the international section of the St. Lawrence River. I need hardly say that I directed the release of \$1,000,000 from the special defense fund for this purpose only because of my conviction that the completion of this project by 1945 might prove of vital importance to our defense effort. It is gratifying that there has been sufficient progress to make possible the initiation of construction this spring.

"I am sure you will agree with me that, while our countries must put forth the maximum immediate defense effort, we must also prepare for the possibility of a protracted emergency which will call upon the industries on both sides of the border to meet constantly expanding demands. The combination of advantages offered by the St. Lawrence project makes it imperative that we undertake it immediately.

"In terms of the time factor, the St. Lawrence project as a part of our defense program is not exceptional, since we are to-day appropriating money for construction of vessels of war which will not be ready for service until the completion of the St. Lawrence undertaking.

"I am convinced of the urgent need for the large increment in low cost electric power which the St. Lawrence project will provide. Already the demand for power is running ahead of expectations. In fact one of the most serious handicaps to the rapid expansion of airplane production is the difficulty of finding the large supplies of high-load factor power required for aluminum production. We are of course expanding our electric facilities for this purpose as fast as practicable but by the time the St. Lawrence power is available other sources of cheap power will have been largely allocated.

"The St. Lawrence project offers by far the soundest and most economical provision for the power requirements of certain portions of our long-range defense program, more particularly for certain high-load factor defense industries. Furthermore the manufacturing facilities and skilled labor available for the construction of steel turbines and electric equipment will be needed to meet the requirements of the vast areas of our continent where water power is not so economically available.

"I am also convinced that the opening of the St. Lawrence deep waterway to afford an outlet for naval and cargo ships constructed in Great Lakes shipyards, far from representing a diversion of funds and resources from the defense effort, would have the opposite effect. Our shipbuilding program, to meet the requirements of defense, will call for a great expansion of shipyards with their associated machine shops and adequate supplies of skilled labor. The extent to which intensified submarine and air attacks on convoys may necessitate an expansion of the program is still unknown. If the war is protracted however it seems certain that the number of shipyards required will have to be several times those at present available. In terms of our present industrial arrangements, many of these can be made most readily and economically available in the Great Lakes area.

"If the full burden of our expanding ship construction must fall on seaboard shipyards the time required to complete the vessels themselves must, in many instances, be increased by the period necessary to construct new shipyards and facilities. With this in mind it is apparent that the deep waterway could be completed in time to provide an outlet to the sea for many of the new vessels included in the present program.

"In the light of these facts it is my belief that the funds and man power required for the earliest possible completion of the St. Lawrence project could not be better spent for our joint defense effort, including aid to Great Britain. It is my feeling that failure to take advantage of the possibilities of this project would be short-sighted, in no way contributing to an increase in our immediate defense effort, while limiting our defense program in the difficult years which lie ahead."

Accept, Sir, the renewed assurances of my highest consideration.

PIERREPONT MOFFAT.

The Right Honourable,
The Secretary of State for External Affairs,
Ottawa, Canada.

PART III

CORRESPONDENCE BETWEEN THE GOVERNMENT OF CANADA
AND THE GOVERNMENT OF ONTARIO CONCERNING THE
GREAT LAKES-ST. LAWRENCE BASIN DEVELOPMENT.

No. 12

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, May 31, 1938.

MY DEAR PREMIER,

I enclose a copy of a note from the Secretary of State for the United States, which was received here yesterday, setting forth proposals for the development of the Great Lakes-St. Lawrence system for navigation and power purposes.

There has, of course, been no opportunity as yet, for consideration by our government of the new proposals.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN,
Premier of Ontario,
Toronto, Ontario.

No. 13

*From The Premier of Ontario,
To The Prime Minister of Canada.*

TORONTO, August 19, 1938.

MY DEAR PRIME MINISTER,

Some time ago you sent to me a copy of a communication addressed to your Government by the Department of State at Washington, having to do with the St. Lawrence Waterways project. The communication was read with considerable interest but as the document itself was addressed to your Government and you forwarded a copy to this administration without comment and inasmuch as ample time has elapsed now for you to give sufficient study to the problem, I would like to know what your policy is, if any, and should you have a policy, what proposal have you to submit to this Government for consideration.

Insofar as power requirements are concerned, the fact is well known to you that Ontario has an ample supply for many years to come—indeed a huge surplus—for which it must pay and receive no benefit. This unsatisfactory condition would not obtain at this moment had you granted us, when you had the opportunity, the right to export

this surplus at a profit which would have enabled us in turn to grant a further reduction in rates to the power consumers of Ontario. It is the responsibility of this administration and not yours to provide the necessary power for our present and future requirements and in this respect we are fully cognizant of our responsibility.

I have on various occasions ventured the opinion that the St. Lawrence Waterways project could not be justified on economic grounds. Our interests are confined to power but nevertheless as the keystone province of the Dominion, we are also interested in the railway situation which has not been improved since you have been head of the administration at Ottawa. Until such time as you solve what is considered to be one of the major problems of Canada—that of the national railway deficits—I cannot conceive how you could seriously consider spending public funds for the purpose of creating another public, competitive avenue of transportation, which would undoubtedly have the effect of further increasing the deficits of the Canadian National Railways; furnishing a further threat to the security of the employment of the railway men of Canada even to the extent of placing more people on our already overburdened relief lists; and a further threat to the very credit of the Dominion, the Provinces, and the municipalities.

No one has yet been able to estimate with any degree of accuracy the cost of this entire project but I do know, according to a memorandum submitted to me by Dr. Thomas Hogg, Chairman of the Hydro-Electric Power Commission of Ontario, that under the old agreement Ontario was obligated to pay as its share a sum varying between \$62,000,000 and \$73,000,000 (not including the cost of interest).

Irrespective of any propaganda or squeeze play that might be concocted by you, you may rest assured that this Government will resist any effort to force us to expend public funds in such an unwarranted manner or to foist upon the people of Ontario an additional burden of debt and taxation.

Yours truly,

M. F. HEPBURN.

Right Honourable W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Parliament Buildings,
Ottawa, Canada.

No. 14

*From the Prime Minister of Canada,
To the Premier of Ontario.*

OTTAWA, August 30, 1938.

MY DEAR PREMIER,

I have received your letter of August 19th, regarding the proposals of the United States Government for a jointly planned development of the natural resources in the Great Lakes-St. Lawrence River basin which I sent you with my letter of May 31st last.

These proposals suggest for discussion a plan for the solution of many outstanding phases of the development of the St. Lawrence-Great Lakes system which are of interest to both Canada and the United States. These questions include the development of the international section of the St. Lawrence for navigation and power; the preservation of the scenic beauties of Niagara, together with substantially increased provision for the utilization of its power resources; the recognition that water diverted into the Great Lakes from the Hudson Bay watershed, as for example at Ogoki and Long Lake, shall be available to Canada for power uses in boundary waters below the point of diversion; the general question of power interchange, and provision for the permanent settlement of the Chicago Sanitary Canal diversion and the restoration and regulation of Lake levels. These questions have been dealt with separately or in various combinations in negotiations between the two countries over a long period of years. The new draft proposes the consideration and settlement of all the outstanding questions in one negotiation, with provision for carrying the several parts and stages into execution as opportunity and the needs of each country permit.

The Government of Canada is primarily concerned in the questions of the improvement of navigation, the safeguarding of lake levels, the settlement of the Chicago diversion and other general phases of Great Lakes development. It is examining the draft proposals in their bearing on these questions. In examining the navigation question, due weight will be given to the consideration that the greater part of the Canadian share of the work of improvement has already been done, and that in the division of the total costs between the United States and Canada, credit would be given for the \$125,000,000 which the Dominion has already expended in providing the new Welland Ship Canal. For any

conclusion on these matters the Canadian Government will be responsible to Parliament, and will be prepared to set forth and support its conclusions in due course. Any arrangement eventually proposed would in any event have to be submitted to Parliament before ratification, and the representatives of the constituencies in all the Provinces, including Ontario, would have every opportunity to give their views and votes. No final conclusion can of course be reached as to the feasibility of the whole project as set forth in the draft treaty until the possibilities of a solution of the power questions involved have been explored.

It has frequently been pointed out to the Government at Ottawa by various Ontario Administrations how especially in that Province the development of their most important and valuable power sites or their expansion depends upon the practical necessity of reaching international agreement—the cases in question being the 1,000,000 horsepower available within the Canadian boundaries of the international section of the St. Lawrence, the expansion of existing Niagara developments, and the further expansion of production at both these sites by means of new water to be brought into the Great Lakes system from the Hudson Bay watershed.

In view of the requests received here from Ontario Governments, to which I have alluded, including those from your own Administration, and upon which a long course of negotiations with the United States has been founded, we have been and are prepared to make every practicable effort to clear the field of the international difficulties which as the published correspondence indicates, completely obstruct progress in freeing for use such a large proportion of Ontario's future sources of power supply.

I may perhaps point out very generally that the proposal recently made to us does not involve the development of a block of power on the Canadian side of the international St. Lawrence reach in the near future. Taking account of the time required for construction of the works, the successive blocks of power could not be made available until the expiration of at least 7 years for construction after the time a treaty had been not only signed but ratified on both sides, and in addition there would be the possibility of some further postponement of the actual utilization of some of the power, depending on the financial arrangements to be made.

It is practically impossible, without full technical examination and discussions, to estimate accurately and completely the practical effect of the various parts of the project and the implications. Naturally such a technical examination cannot be complete and dependable unless it takes account of the practical and financial implications involved in the power aspects of the project. It is realized that these include matters which

are within the knowledge and responsibility of the Ontario authorities. For these reasons I have on previous occasions suggested that technical discussions be held here with the Hydro Electric Power Commission or such representatives as you may designate.

It seems plain therefore that at the present stage the first question which arises is one of procedure. From the beginning of the long period of international negotiations I have mentioned there has been on the part of successive Dominion and provincial Governments a remarkable continuity of policy as to procedure, and on every point involving the provincial interest there has always been full and detailed joint technical examination and estimating between federal and provincial officials. Obviously this was essential if the international negotiations were to be effectively handled, and as a natural result the lines of the previous international negotiations and consequently the shape of their present position have been very considerably fixed by the representations contributed on behalf of Ontario to the joint federal-provincial explorations. We continue to need this kind of detailed technical examination in order that Canada may have the best information in continuing to carry out her duty under the established practice of careful joint consultation with the other country upon matters of joint concern.

Our general policy therefore is to continue trying to clear away the obstacles to the Province's freedom to develop its own resources at its own discretion, however long and complicated the task may be. At the present moment, the matter confronting all concerned being simply one of procedure involving no decision on any aspect of substantive policy, our immediate proposal, in view of our international responsibilities, is to renew the invitation that joint technical examination and discussions now take place between federal and provincial officials.

I should be glad to designate technical representatives for such discussions at any time. I may add that, in accordance with the usual rule and with the practice in the past, such technical discussions would necessarily be completely without prejudice and only for the guidance of the two Governments respectively.

We hope this will be acceptable and that you will find it convenient to designate representatives for this purpose at an early date.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN, M.L.A.,
Premier of Ontario,
Toronto, Ontario.

No. 15

*From the Premier of Ontario
To the Prime Minister of Canada*

TORONTO, September 21, 1938.

MY DEAR PRIME MINISTER:

I beg to acknowledge receipt of your letter of August 30th.

As you point out most of the matters arising within the proposed Treaty can be determined and settled only by the Government of Canada. For me to participate in any negotiations or discussions looking to the formation of Dominion Government policy could only lead to confusion. It is your responsibility, not mine, and it would be equally embarrassing to both of us if I took any part in it. Of course, I am greatly concerned, in view of the fact that all the Great Lakes are within the territorial limits of this Province and the enormous proposed expenditure will be paid for to the extent of upwards of one-half by the people of this Province. You point out that, in the division of the total costs, you expect credit to be given to Canada for a share of the expenditure already made on the Welland Canal. You do not refer, however, to the fact that, in order to get any new benefit from the proposed St. Lawrence canal every harbour and dock on the Great Lakes will require to be deepened and rebuilt and in many instances there are physical and engineering problems which are almost insurmountable. Added to this will be the enormous cost of dredging and maintaining harbours at the proposed new low levels, which cost will continue in perpetuity. These vast expenditures of Dominion money will exceed the cost of the St. Lawrence work itself and will be unshared by the United States.

May I ask where the pressure is coming from for the deep waterways? Has any ocean steamship company indicated that if the canal were built it would utilize it for ocean-going ships?

My opinion is that there is far too great an overhead expense to permit any type of ship, except the ocean tramp steamers, for which there are now adequate facilities, from meandering slowly up an inland course. Certainly such an avenue of transportation would eliminate any possible passenger service. It would appear that the whole project would prove as great a fiasco as the present Hudson Bay outlet.

The attitude of this Province to the power clauses seems obvious to me. When this Government came into office the Province was swamped with a surplus of unuseable Quebec power—a situation with which it would not in any way be chargeable. We have succeeded in lightening this burden in a number of ways in spite of the quite unsympathetic attitude of your Government. We now have a surplus of power which we can carry, but which is rather larger than we require

as a reserve and certainly is sufficient for many years. This Province is simply not interested in the production of any more power. To take any part in any negotiations which may lead to this end would be unwise and misleading. The only market for Canada's share of the power developed on the St. Lawrence is within the Provinces of Quebec and Ontario or in the United States. Quebec and Ontario are suffering from a surplus of power which will continue for many years to come. It seems clear to me that the effect of the proposed Treaty is to prepare a reserve of power on Canada's side which can quickly be brought into production when the need arises for sale to the United States. I do not think that this Province wishes this ultimate power resource to be made available in advance of Ontario's needs or that it should be disposed of in this way. Moreover, I think it is extremely doubtful as a constitutional issue that the Dominion has the right to use Ontario waters in a project which, from the wording of the Treaty and the accompanying documents, the great delay in the completion of the canals, the whole character of the work, is in reality a power project first and not a waterway.

May I draw your attention to the fact that the whole matter of power development from its engineering standpoint was fully investigated with the aid of the Hydro engineers of this Province during the negotiation of the terms of the Treaty prepared by Right Honourable R. B. Bennett and rejected by the United States Senate. Your own engineers have all the records. There is no necessity to incur further expense of doing this work over again in order to delay the embarrassing necessity of stating your policy towards this Province.

Perhaps I might also make clear that I wish to be entirely untrammelled in my discussion of any proposal which may come from your Government, when and if you decide to announce a policy on the St. Lawrence development.

There are, however, other problems related to the Great Lakes which have to do with a proposed development above Niagara and separate entirely from the St. Lawrence scheme. The proposed diversion of waters into Lake Superior would be of great value in raising lake levels and eliminating annual dredging costs. The water courses developed under such a scheme would open up areas of timber now inaccessible and subject each year to the usual fire hazards, and provide power sites where there is an increasing demand in Northern Ontario for electricity, as the result of new mining development, which development in areas where there are great deposits of low grade ore depend upon cheap power for their future success.

Expenditures on such projects could at this moment, unlike the proposed St. Lawrence waterway, be justified on economic grounds.

If your Government is interested in supporting a constructive development policy for Ontario, I shall be pleased to renew representations already made to you on this subject.

Your truly,

M. F. HEPBURN

Right Honourable W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Ottawa, Ontario.

No. 16

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, October 17, 1939.

MY DEAR PREMIER:

During the course of the recent conference between Lieutenant-Governor Matthews, yourself and Mr. Drew, and Mr. Walters, and my colleagues and myself, reference was made to the desirability of securing additional sources of Hydro-Electric power to meet the needs of war industry, and it was arranged that the Chairman of the Hydro Electric Power Commission of Ontario would come to Ottawa shortly for detailed discussion.

Dr. Hogg arrived in Ottawa on Wednesday morning, October 11th, and remained here until Thursday evening. The whole power situation and related questions were examined in discussions between Dr. Hogg and the Minister of Transport and officials of the Departments of External Affairs and Transport. I understand that the situation as to the several questions that were gone into is as follows:

Trent Canal.—Dr. Hogg raised the question of power from the Trent Canal system. It was agreed, and arrangements will be made, to permit reach levels in the power section of the river to be fluctuated up to the point where maximum power can be derived therefrom, even though navigable depths will be reduced to the minimum of the system, namely 6 feet. This arrangement will continue through the duration of the war. Proposals were made which would, in effect, permit Hydro officials to direct the flow of water out of storage basins as they desire, provided reaches do not fall below the level required to maintain 6 ft. depth for navigation. The exact procedure to be followed has not finally been determined. Dr. Hogg has asked for time to consider ways and means for effecting daily changes, and will confer further with Transport officials shortly.

Welland Canal.—A method was discussed whereby an additional 270 c.s.f. of water can be made available from the Welland Canal for the DeCew Falls plant. This involves serving an existing private industry by electric power instead of water power, and diverting the water so released to DeCew Falls, where it can be used more efficiently. An arrangement was also discussed through which power from our Welland Canal hydro plant can be substituted temporarily while repairs to equipment are effected in your DeCew Falls plant.

Point of Export of Power.—You suggested 40,000 h.p. of electrical power could be exported at Cornwall instead of at Niagara. We are prepared to include this proposal in the negotiations with the United States for settlement of all international waterway problems.

International Waterways.—You indicated in the course of our conference that you are prepared to support acceptance of the general proposals made by the United States Secretary of State, Mr. Cordell Hull, in May, 1938, regarding the future utilization of the Great Lakes-St. Lawrence basin. The draft treaty transmitted by Mr. Hull provided for construction of the International Rapids Section of the St. Lawrence deep waterway, the diversion of additional water on both sides of the Niagara River with remedial works just above the Falls, and the utilization on our side for power purposes of waters diverted from the Long Lac and Ogoki watersheds at the lakehead and at Niagara. In the discussions last week it was agreed that the draft Treaty must be examined in detail before a definite reply could be made. Ontario holds the key to this development, and its power needs must to a large extent determine the direction of further negotiations. I understand that a review will be made by the Ontario authorities of the power requirements of Ontario in their bearing on the type of development to be adopted in the St. Lawrence, and the date of completion of the different stages of the work, and an examination made of the agreement of 1932 between the Province of Ontario and the Dominion in order to determine what, if any, modifications in this agreement would now be necessary. In the meantime, the detailed examination of the engineering and cost phases of the project is being continued here, and our officials will be prepared to discuss the questions further at any time with Dr. Hogg or other Hydro representatives.

The negotiation of the St. Lawrence water project has wide implications, and a thorough study is necessary before definite commitments can be made. I feel that very definite progress has been made through the conference with yourself and the detailed discussions with Dr. Hogg. We are prepared to advance the matter as rapidly as engineering studies and negotiations with the Hydro will permit.

I may take this opportunity to refer to the offer of airplanes which was made at the same conference. Arrangements have been completed to take over from your Government two Stinson hydroplanes for the duration of the war, together with their pilots and personnel. These are a material contribution to Canada's war effort and the action of the Government of Ontario in making them available is greatly appreciated.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN, M.L.A.,
Premier of Ontario,
Toronto, Ontario.

No. 17

*From The Premier of Ontario,
To The Prime Minister of Canada.*

TORONTO, October 28, 1939.

MY DEAR PRIME MINISTER,

I wish to thank you for your letter of October 17th dealing with the recent conference between us, attended by our colleagues, in relation to additional sources of hydro-electric power to meet the additional demands created by the war. For convenience, my comments are given under the headings which you used in your letter.

Trent Canal.—The basis which you outline for the use of the waters of the Trent Canal should be quite satisfactory. Engineers of the Commission are now considering questions of procedure and, as you say, conferences with the officials of the Department of Transport are expected to take place shortly.

Welland Canal.—It is to be hoped that any obstacles now in the way of making available an additional 270 c.f.s. of water (or more if practicable) from the Welland Canal for use at the Commission's DeCew Falls plant will shortly be removed. I also hope that the Department of Transport will shortly complete the studies which it has undertaken to make to determine the maximum quantity of water that can safely be taken through the Welland Canal for use at the Commission's DeCew Falls plant at such time as it may be permissible and practicable to use that maximum quantity of water.

The Commission is already enjoying an emergency supply of power from the Department of Transport's Welland Canal plant. The Department's willingness to make this emergency supply available has been very helpful.

Point of Export of Power.—I can quite see that you might wish to make sure that Washington would have no objection to exporting power at Cornwall instead of at Niagara, but I would point out that the Hydro-Electric Power Commission is concerned only with a geographical restriction on export which has been imposed by departmental regulations and which is neither expressed nor implied in the Electricity and Fluids Exportation Act of 1907.

At the moment the United States has no restrictions against the importation of electricity and it does not appear to me that it would be advisable to include in any general negotiations relating to the proposed treaty, this suggestion to alter the point at which electrical power may be exported for this in no way affects the total quantity to be exported; its formal inclusion might have undesired consequences. Would not an informal sounding out of the attitude of the United States on this question serve your purpose equally well?

In the matter of export there is a larger issue involved than the one just mentioned. It is the question of whether or not the United States would permit Canada, under or in consequence of a new treaty enabling the St. Lawrence project to go forward, to export to the United States, temporarily or for short periods, additional quantities of reclaimable power produced in Ontario from the St. Lawrence development. This is a question which might have an important bearing on the financial burden of the project and one which could very properly be included in the general discussion relating thereto.

International Waterways.—I am not sure that I understand the full meaning of your statement that "Ontario holds the key to this development, and its power needs must to a large extent determine the direction of further negotiations". At our conference, I requested your consideration of a question of viewpoint and responsibility which to my mind is of material importance. It seems to me that a project which may be of great importance to the industrial life of Ontario or any other province, is not a matter of concern for that province only but one of deep interest and importance to Canada. If this is accepted as true, then it follows that it is the proper function, in fact the duty, of your Government to further in every reasonable and practicable way projects which are of deep concern to individual provinces.

In the case of the St. Lawrence, for example, I think it may well be said that it would not be unreasonable to expect Canada to relieve the power users of Ontario of any financial burden during such time as they may be unable to put St. Lawrence power to profitable use. While it may be quite proper for the power users of Ontario to remit to Canada a portion of the cost of the power works and common works notwithstanding that these works are to be constructed at the sole expense of the United States, I feel that Canada may, with propriety

and justice, defer the time at which it will call upon the Hydro-Electric Power Commission of Ontario to remit this money until St. Lawrence power can be utilized to advantage.

The draft treaty submitted by United States Secretary of State, Mr. Cordell Hull, in May of 1938, contemplates the development of the St. Lawrence Waterway from Lake Ontario to Montreal, and includes therewith all international questions relating to the Great Lakes-St. Lawrence basin; examination of these will naturally arise out of consideration of this draft treaty.

Owing to the mutual interest in, and the joint nature of the St. Lawrence project as between Canada and Ontario, some of these international questions and certain other questions, such as those relating to finance, must be the subject of preliminary consideration and agreement between Canada and Ontario.

In this connection, I am pleased to note your reference to an examination of the agreement of 1932 between the Province of Ontario and the Dominion of Canada to determine what modifications would now be necessary.

Dr. Hogg informs me that these questions, as well as the engineering features of the developments, are being considered by the Commission's engineers and that he expects to be in a position to discuss them with officials of the Department of Transport as soon as the latter are ready.

Your kind reference to the taking over of two hydro-planes which this Government was glad to make available to the Government of Canada, is appreciated.

Yours sincerely,

M. F. HEPBURN.

Right Hon. W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Ottawa, Ontario.

No. 18

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, October 10, 1940.

My Dear PREMIER,

I enclose a copy of a memorandum from the United States State Department, setting forth the measures which it is proposed to adopt to provide additional water to meet the requirements of the Province of Ontario for hydraulic power. You have, I believe, already received a copy of the memorandum which the Chairman of the Hydro Electric Power Commission of Ontario was asked to convey to you.

We believe the provisions for the Ogoki and Long Lake diversions and the utilization of an equivalent amount of water at Niagara, will provide effectively, without any substantial capital outlay, for additional power which the Hydro Electric Power Commission will require to meet the increasing needs of war production.

I should be obliged if you could inform me whether the provisions of the arrangement are satisfactory so far as they affect the Province of Ontario and the Hydro Electric Power Commission.

The third proviso in the memorandum deals with further preliminary engineering investigations in the International Rapids Section. It would be our intention to appoint as Canadian members, in addition to a Dominion Government engineer, Dr. T. H. Hogg of the Hydro Electric Commission, and Dr. Olivier Lefebvre of the Provincial Electricity Board of Quebec. I should be obliged if you could let me know whether you concur in the appointment of Dr. Hogg for this purpose.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN,
Premier of the Province of Ontario,
Toronto, Ontario.

(The memorandum mentioned in the above letter is reproduced immediately following document No. 28 in this publication.)

No. 19

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, October 10, 1940.

Dear Mr. PREMIER,

With reference to my letter of to-day, I should add that we are seeking to secure from the United States Government a definite understanding that Ontario may begin at once to utilize at Niagara water equivalent to the amount to be diverted through the Ogoki and Long Lake, without waiting for the completion of the Ogoki works.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN,
Premier of the Province of Ontario,
Toronto, Ontario.

No. 20

*From The Premier of Ontario,
To The Prime Minister of Canada.*

TORONTO, October 18, 1940.

My Dear PRIME MINISTER,

I have your letters of October 10th and a copy of the memorandum from United States State Department which was enclosed and which sets out proposals with respect to the development of the International Rapids Section of the St. Lawrence River, the diversion of approximately 5,000 cubic feet per second from the Albany River basin into Lake Superior and the immediate use of additional water for power at Niagara Falls. I note that you are seeking to secure from the United States Government a definite understanding that Ontario may begin at once to utilize, at Niagara, water equivalent to the amount to be diverted through the Ogoki and Long Lake without waiting for the completion of the Ogoki works, and I understand that the United States Government has consented to this on condition that the Hydro Electric Power Commission of Ontario commence work upon the Ogoki diversion immediately.

I have discussed this matter with the Chairman of the Hydro Electric Power Commission of Ontario and am pleased to assure you that the Commission is prepared to proceed immediately with the Ogoki diversion and that the Province of Ontario approves of this diversion and the proposals set forth in the foregoing.

The further procedure, if any, that may be necessary to secure your formal authorization to divert additional water at Niagara is not entirely clear to me; I am not sure whether this letter is a sufficient undertaking on the part of Ontario or whether you may have in mind some more formal undertaking. In the latter case I should be glad to hear from you as soon as possible so that delay in securing your formal authorization for the additional Niagara diversion will be avoided.

I note your intention to appoint, as Canadian members of an International Committee to carry on preliminary investigations in the International Rapids Section of the St. Lawrence River, Dr. T. H. Hogg and Dr. Olivier Lefebvre, also your inquiry as to whether I concur in the appointment of Dr. Hogg. I am pleased to assure you that I do concur in Dr. Hogg's appointment, as outlined in my telegram of October 16th.

In general, I am happy to say that the points of agreement already reached with the United States appear to me to represent constructive

work and that the results of this agreement should be helpful in prosecuting Canada's war effort and to the general advantage of all concerned.

Yours very truly,

M. F. HEPBURN.

Right Honourable W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Ottawa, Ontario.

No. 21

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, October 30, 1940.

My Dear PREMIER,

I have received your letter of 18th October, 1940, concerning the proposals relating to the development of the International Rapids Section of the St. Lawrence River and to the diversion of approximately 5,000 cubic feet per second from the Albany River basin into Lake Superior, and the immediate use of additional water for power at Niagara Falls.

In view of your assurance that the Commission is prepared to proceed immediately with the Ogoki and Long Lake diversions, and that the Province of Ontario has approved, I have requested the Canadian Minister at Washington to confer with the Secretary of State, with a view to the immediate authorization of an additional diversion at Niagara of 5,000 cubic feet per second. I assume that instructions will go forward from Washington to the United States representative on the Niagara Board, and similar instructions will be sent from the Canadian Government to the Canadian member. The Hydro Electric Commission will be advised at the same time. It will then be possible to make the additional diversion at Niagara without further formality.

In the third paragraph of your letter you ask whether the letter itself would be regarded as a sufficient undertaking on the part of Ontario, or whether some more formal undertaking is needed. I should not be inclined to ask for anything beyond your letter, which sets forth very clearly the position of the Ontario Government. If, however, in order to meet the requirements of your own governmental procedure, there is a formal Order in Council or Minute of the Commission, I should appreciate it if you would send me copies for purposes of record.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN,
Premier of the Province of Ontario,
Toronto, Canada.

No. 22

*From The Premier of Ontario,
To The Prime Minister of Canada,*

TORONTO, November 14, 1940.

Dear Mr. PRIME MINISTER,

With reference to your letter of October 30th, 1940, in which you suggest that I might forward to you copies of any Commission minutes and formal Orders-in-Council relating to the Ogoki and Long Lac diversions, I am now attaching for your files certified copies of minutes of the Hydro Electric Power Commission of Ontario covering the Long Lac diversion dated April 27th, 1937, and the Ogoki diversion, dated October 24th, 1940. Also attached is a copy of the Order-in-Council authorizing the Long Lac diversion, dated May 8th, 1937, and a copy of the Order-in-Council authorizing the Ogoki diversion, dated November 7th, 1940.

Yours very truly,

M. F. HEPBURN.

Right Honourable W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Ottawa, Ontario.

*Excerpt from the Minutes of the Meeting of The Hydro Electric Power
Commission of Ontario held 27th April, 1937.*

"It was decided to recommend to the Lieutenant-Governor in Council and request that the Commission be authorized by Order-in-Council to store water in Long Lac and the river flowing thereout including tributaries thereto and to divert the water of the said Lake and river and their drainage areas by way generally of the valleys of the Aquasabon and Black Rivers to Lake Superior, all in the District of Thunder Bay; to control the water of the said Lake and rivers, their tributaries and drainage areas and to use the said water; for such purposes to raise and lower the level of water, flood, dry and overflow land, enlarge and change the boundaries and course of streams and generally improve, develop, divert, alter and use the said lake and rivers.

"It was further decided to request that the Order-in-Council authorize and direct that the Province of Ontario as its share of all costs of the works and undertaking aforesaid do pay to the Commission the sum of \$400,00000 and do make payment thereof on completion of works sufficient for transporting pulp wood and logs since the said storage, control and diversion of water will be useful for transporting pulp wood and other logs to Lake Superior and is in part necessary therefor.

"The Secretary and Controller was directed to forward the said recommendation and application for Order-in-Council."

CERTIFIED TRUE COPY.

OSBORNE MITCHELL,
Secretary.

Excerpt from the Minutes of the Meeting of the Hydro Electric Power Commission of Ontario held 24th October, 1940.

"It was decided to recommend to the Lieutenant-Governor in Council that the Commission be authorized by Order-in-Council to divert into Lake Nipigon the water of the Ogoki River and of the lakes, rivers, streams and drainage area tributary thereto above and at Waboose Rapids on the said Ogoki River, all in the District of Thunder Bay; to control the said water; to raise and lower the level of water, to flood, dry and overflow land; to enlarge, restrict and reduce bodies of water and water courses and to alter the boundaries and courses thereof, and generally to improve, develop, divert, alter and use the said water, lakes, rivers, streams and drainage area; to produce all the power at any time available from the said water or water equivalent in quantity thereto at places in Ontario where the water so diverted may flow, and generally to use for the purposes of the Commission such water and the power produced therefrom.

"The Secretary was directed to forward the said recommendation and make the said application for Order-in-Council."

CERTIFIED TRUE COPY.

OSBORNE MITCHELL,
Secretary.

EXECUTIVE COUNCIL OFFICE

Copy of an Order-in-Council approved by The Honourable the Administrator of the Government of the Province of Ontario dated the 8th day of May, A.D. 1937.

Upon the recommendation of the Honourable the Minister of Public Works and Highways, and upon the application of The Hydro Electric Power Commission of Ontario, the Committee of Council advise that under and by virtue of The Power Commission Act, R.S.O. 1927, Chap. 57 and amendments thereto, the said Commission be authorized—

1. To store water in Long Lac and the river flowing thereout including tributaries thereto and to divert the water of the said lake and river and their drainage areas by way generally of the valleys of the Aquasabon and Black Rivers to Lake Superior, all in the District of Thunder Bay;
2. To control the water of the said lake and rivers, their tributaries and drainage areas and to use said water;
3. For such purposes, to raise and lower the level of water, flood, dry and overflow land, enlarge and change the boundaries and course of streams and generally improve, develop, divert, alter and use the said lake and rivers;
4. For all such purposes to acquire, hold, improve and use real and personal property and to construct, maintain and operate works, including without limiting the generality thereof, dams, channels, slides, raceways, sluices, gates and spillways and everything required for or incidental to any of the said purposes and the carrying on, performing and completion of the same;
5. For all such purposes to exercise, enjoy and use all the powers, rights, privileges, authorities and immunities that may be given to or exercised by the Commission under subsection 1 and under

clauses (a) to (l) inclusive of subsection 2 of section 20 of The Power Commission Act and Amendments thereto or otherwise.

The Committee further advise that since the said storage control and diversion of water will be useful for transporting pulpwood and other logs to Lake Superior and is in part necessary therefor the Province of Ontario, as its share of all costs of the works and undertaking aforesaid, do pay to The Hydro Electric Power Commission of Ontario the sum of \$400,000.00 and do make payment thereof on completion of works sufficient for transporting pulpwood and logs.

CERTIFIED.

(Sgd.) C. F. BULMER,

Clerk, Executive Council.

EXECUTIVE COUNCIL OFFICE

Copy of an Order-in-Council, approved by The Honourable the Lieutenant-Governor, dated the 7th day of November, A.D. 1940.

Upon the recommendation of the Honourable William L. Houck, Member of the Executive Council, and upon the application and recommendation of The Hydro Electric Power Commission of Ontario, the Committee of Council advise that under and by virtue of The Power Commission Act, R.S.O. 1937, Chap. 62 and amendments thereto the said Commission be authorized:

1. To divert into Lake Nipigon the water of the Ogoki River and of the lakes, rivers, streams and drainage area tributary thereto above and at Waboose rapids on the said Ogoki River, all in the District of Thunder Bay;
2. To control the water of the said rivers, lakes, streams and drainage area;
3. For such purposes to raise and lower the level of water, to flood, dry and overflow land, to enlarge, restrict and reduce bodies of water and watercourses and to alter the boundaries and courses thereof and generally to improve, develop, divert, alter and use the said water, rivers, lakes, streams and drainage area;
4. To produce all the power at any time available from the said water or water equivalent in quantity thereto at places in Ontario where the water so diverted may flow and generally to use for the purposes of the Commission such water;
5. To transmit, transform, make available for use, distribute, deliver, sell, supply and generally use for the purposes of the Commission the said power and other power to and at places in the Province of Ontario, and to connect with any power works and any system;
6. For all such purposes to acquire, hold, improve and use real and personal property, and to construct, maintain and operate works, including without limiting the generality of the foregoing, dams, channels, bridges, slides, raceways, sluices, gates, spillways, roads, works for generation, transmission, transformation, switching, regulating, distribution and supply of power, equipment, installations, plant, systems and other works and everything required for or incidental to any of the said purposes and the carrying on, performing and completion of the same;

7. For all such purposes to exercise, enjoy and use all powers, rights, privileges, authorities and immunities that may be given to or exercised, enjoyed, or used by the Commission under subsection (1) and under clauses (a) to (m) inclusive of subsection (2) of section 21 of The Power Commission Act and amendments thereto or otherwise.

CERTIFIED.

(Sgd.) C. F. BULMER,
Clerk, Executive Council.

No. 23

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, January 8, 1941.

MY DEAR PREMIER,—

May I refer to your letter dated 14th November, 1940, and to the previous correspondence with regard to the Great Lakes-St. Lawrence Basin Development.

In your letter dated 14th November, you transmitted certified copies of the Minutes of the Hydro Electric Power Commission of Ontario; the Long Lac diversion, dated April 27, 1937; the Ogoki diversion, dated October 24, 1940; and also of the Orders-in-Council authorizing the Long Lac diversion, dated May 8, 1937, and the Ogoki diversion, dated November 7, 1940.

This information completed our records with regard to this matter. Arrangements were made effective for the utilization of the additional water at Niagara, and the Chairman of the Hydro Electric Power Commission of Ontario was kept informed from time to time.

You may be interested in the developments that have taken place during the intervening period. The Chairman of the Hydro Electric Power Commission of Ontario has kept in touch with this matter continuously and is, of course, familiar with all of the details, as well as with the general course of the negotiations.

The Temporary Great Lakes-St. Lawrence Basin Committees, which were established in October last, have had a series of meetings at Massena and at Ottawa, and have prepared draft reports, of which I am enclosing two copies for your information. They are:

- (1) Engineers' Report, January 3, 1941, which is to be signed by General Robins and Mr. Guy A. Lindsay;
- (2) Report of the Temporary Committees, January 3, 1941, which will be signed by all the members of the Committees.

The Engineers' Report sets forth the conclusions from an engineering point of view, of two groups, and you will observe that the Cana-

dian group includes Dr. Hogg, Dr. Lefebvre and Mr. Hendry. The Report of the two Committees will, of course, be signed by all of the members, and you will note that they submit the Engineers' Report as embodying their own conclusions. They recommend that, in the event that the Governments decide to proceed with the development of the International Rapids Section of the St. Lawrence River, the work should be undertaken in general accordance with the plan of the "238-242" Controlled Single Stage Project. This project would include a power dam in the vicinity of Cornwall and a control dam in the vicinity of Iroquois Point.

The Committees turned over the draft report, the terms of which were approved by all of their members, to the groups from the United States and from Canada who were discussing the provisions of a draft Treaty or Agreement. The Canadian group included Dr. Hogg and Dr. Lefebvre, as well as representatives of the directly interested departments of the Canadian Government. The result of their discussions is embodied in a draft Treaty or Agreement, and I am enclosing for your information:

(3) Two copies of Draft Treaty.

It would not be practicable to discuss this draft in this letter. There are certain points that are not settled between the Governments of this Country and of the United States, such as the form of the Instrument, the timing of the development, and certain of the financial terms. Speaking generally, however, this draft is not essentially different from that which was prepared in Washington a year ago.

It may be necessary for us to discuss these matters more fully at a later date, in the meanwhile I am bringing these documents to your attention in order that you may have an opportunity to examine them. You will, of course, understand that they are still being treated as confidential documents.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN,
Premier of the Province of Ontario,
Toronto, Canada.

No. 24

*From The Premier of Ontario,
To The Prime Minister of Canada.*

TORONTO, January 25, 1941.

My DEAR PRIME MINISTER,—

I beg to acknowledge receipt of your letter of January 8th and enclosures, with reference to the St. Lawrence Waterway and other problems relating thereto.

I regret to advise you that Dr. Hogg who has been chief advisor to the government on these matters suffered a severe injury and is now confined to the hospital. I hope that any discussion therefore can be delayed until he has recovered sufficiently to partake.

If, however, the matter becomes urgent I shall be only too pleased to meet your wishes and carry on as best we can without him.

Yours very truly,

M. F. HEPBURN.

The Right Honourable W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Ottawa, Ontario.

No. 25

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, February 4, 1941.

My DEAR PREMIER,—

May I refer to your letter dated the 25th January, 1941, with reference to the St. Lawrence Waterway and to the problems relating thereto. It was with very great regret that I learned of the unfortunate accident to Dr. Hogg. He was the chief adviser to your Government, with regard to these matters, but he also made a very great contribution to all aspects of the project. Out of his long and extensive experience, Dr. Hogg was able to furnish advice and suggestions which were of great value, both to this Government and also to the interested authorities in the United States. I sincerely hope that he will make a speedy and complete recovery.

At the suggestion of the Attorney-General, the Legal Adviser of this Department, and Mr. J. F. MacNeill of the Department of Justice, went to Toronto last week to discuss certain aspects of the St. Lawrence negotiations. After exchanging views with Mr. Conant and with the representatives of the Hydro Electric Power Commission, who had been

called into consultation, a tentative plan had been made to proceed with the consideration of the legal aspects of the proposed Canada-Ontario Agreement, reserving the financial and engineering aspects of the question until Dr. Hogg's return. It had been tentatively planned to hold a meeting for this purpose during the next week or two with a view to making some progress with the negotiation.

I fully appreciate your view that discussion should be delayed until after Dr. Hogg's return. I am, therefore, asking the Legal Adviser of the Department of External Affairs to let Mr. Conant know that it is considered desirable to defer these discussions for the time being.

If, in the meantime, the matter becomes urgent, I shall communicate with you again.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN, M.L.A.,
Premier of Ontario,
Toronto, Canada.

No. 26

*From The Prime Minister of Canada,
To The Premier of Ontario.*

OTTAWA, February 11, 1941.

My DEAR PREMIER,—

May I make further reference to your letter, dated the 25th January, 1941, and to my letter of the 4th February, with reference to the St. Lawrence Waterway and to the problems related thereto.

In your letter you had suggested that discussions with regard to this matter might be deferred until Dr. Hogg had recovered sufficiently to participate. You had pointed out, however, that, if the matter becomes urgent, you would be only too pleased to meet our wishes and to carry on as best you could without him.

In my letter I had concurred in your suggestion that the negotiations should be delayed until Dr. Hogg returned. I pointed out, however, that if the matter became urgent I would communicate with you again.

Having in mind that negotiations with the United States will necessarily await the conclusion of the agreement to be reached between the Dominion and Ontario, it would seem desirable to conclude negotiations with the Government of Ontario as soon as can conveniently be arranged. I should be pleased, therefore, to learn your views with regard to the procedure that should be followed in completing the Canada-Ontario Agreement.

During the recent discussions in Toronto, it has been planned to work out the legal and engineering side of the negotiations at a meeting

to be called by the Legal Adviser of the Department of External Affairs, and including representatives of the Attorney-General's Department, the legal branch of the Hydro Electric Power Commission, and engineering representatives of the Commission, as well as representatives from the Departments of Justice, Transport, and Mines and Resources at Ottawa. If an arrangement along these lines meets with your approval, I shall have a meeting convened without delay.

You will, of course, understand that this is only a suggestion. I shall be glad to consider any other procedure that you may desire to put forward.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN, M.L.A.,
Premier of Ontario,
Toronto, Ontario.

No. 27

*From The Premier of Ontario,
To The Prime Minister of Canada.*

Telegram

TORONTO, Ont., 13-2-41.

In reply your letter February 11th I shall be pleased to make available the services of senior officials of Government to attend with your representatives at any time or at any place suitable to you therefore. When you call conference you will receive full co-operation in matters having to do with Dominion-Provincial negotiations which when completed will facilitate your further negotiations in the larger field. I shall however not suggest any further delay with regard to Dr. Hogg as his disability will prevent him from attending to departmental matters for several months.

M. F. HEPBURN.

Rt. Hon. W. L. MACKENZIE KING,
Prime Minister of Canada,
Ottawa, Ont.

PART IV

CORRESPONDENCE BETWEEN THE GOVERNMENT OF CANADA
AND THE GOVERNMENT OF QUEBEC CONCERNING THE
GREAT LAKES-ST LAWRENCE BASIN DEVELOPMENT.

No. 28

*From The Prime Minister of Canada,
To The Premier of Quebec.*

OTTAWA, October 10, 1940.

My Dear PREMIER,—

I enclose a copy of a memorandum from the United States State Department, setting forth measures which it is proposed to adopt to assist in providing additional water to meet the requirements of the Province of Ontario for hydraulic power.

You will note that the agreement deals specifically with arrangements for the development of additional power at the head of Lake Superior and at Niagara now, and in the International Rapids Section of the St. Lawrence later.

In connection with the proposed preliminary engineering investigations in the International Rapids Section which are dealt with in the memorandum, it would be our intention to appoint as Canadian members, in addition to a Dominion Government engineer, Dr. T. H. Hogg of the Hydro Electric Power Commission of Ontario, and Dr. Olivier Lefebvre of the Provincial Electricity Board of the Province of Quebec. I should be obliged if you could let me know whether you concur in the appointment of Dr. Lefebvre for this purpose.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable ADELARD GODBOUT,
Premier of the Province of Quebec,
Quebec.

MEMORANDUM FROM UNITED STATES STATE DEPARTMENT

September 25, 1940

The Government of the United States is aware of the interest of the Hydro Electric Power Commission of Ontario in the immediate temporary diversion of additional water at Niagara to take care of its pressing need for more power for the defense load. It has in mind, also, the correlative concern of Ontario with the possibility of including the development of the International Rapids section of the St. Lawrence River in its longer range plans for additional supplies of power.

In this connection it may be appropriate to refer, also, to the interest of the Government of the United States in the early development of mutual plans for the best utilization of the resources of the entire Great Lakes basin by the two peoples. Any understandings at this time, while necessarily of a temporary nature, should be such as to be in harmony with and to forward the more comprehensive plans for the Great Lakes-St. Lawrence undertaking.

The interest of the United States in the matter has been considerably heightened since the conversations of last winter, due to the necessity which has arisen of a major national defense effort. This program, which will necessarily extend over a period of years, may be expected to result in an acceleration in the upward trend in the demand for power. The development of the International Rapids Section of the St. Lawrence River offers the best means of meeting the increasing demand in one of the most important areas of war material production.

In the light of these considerations, the United States is considering the following procedure as designed to further the above set forth interests of the two peoples;

1. Agreement on the diversion of water from the Albany River basin into Lake Superior to the extent of approximately 5,000 cubic feet per second, as contemplated in the proposed Ogoki and Long Lake projects of the Province of Ontario.

2. Agreement that, notwithstanding the provisions of Articles 5 and 8 of the Boundary Waters Treaty of 1909, the exclusive rights to the use of waters equivalent in quantity to waters so diverted shall be vested in Canada and may be diverted by the Ontario Commission in addition to the present diversion for power purposes at Niagara.

3. Understanding that there will be initiated immediately preliminary engineering and other investigations of the site of the International Rapids Section project, including core borings, test pits, soil analyses, preparation of specifications, etc., in order that the project may be undertaken without delay when final decision is reached by the two Governments. Such preliminary work will be under the direction of a Commission designated for that purpose to cooperate with a similar body representing the Canadian Government.

4. Agreement that the cost of such preliminary investigations and engineering work shall be considered as part of the cost of the project for purposes of allocation to be reimbursed in proper proportion by the Ontario Commission as and when it develops its share of the International Rapids Section power.

5. Agreement that, as and when convenient, the necessary instrument will be signed by the United States and Canada to make possible the immediate undertaking of the International Rapids Section development.

It is the view of this Government that the mutual needs of both countries in the present emergency, especially in the matter of power, can be best served by proceeding along the general lines indicated above. In this connection, it would note that immediate advantages in the transportation of bulky commodities in the defense programs of both countries would be assured by the improvement of the navigable depths of the Great Lakes and St. Lawrence River which will follow the diversion of additional water into the Great Lakes basin.

No. 29

*From The Premier of Quebec,
To The Prime Minister of Canada.*

Telegram

1940 Oct. 11 AM 11 19

QUEBEC, QUE.

Your letter tenth October received this morning I concur in the appointment of Dr Olivier Lefebvre as suggested

ADELARD GODBOUT.

Right Hon. W L MACKENZIE KING
Prime Minister of Canada
Ottawa Ont

No. 30

*From The Prime Minister of Canada,
To The Premier of Quebec.*

OTTAWA, January 8, 1941.

My Dear PREMIER,—

May I refer to my letter of the 10th October, 1940, and to our subsequent discussions by telephone with regard to the Great Lakes-St. Lawrence Basin development.

In view of the prospective discussions of certain aspects of this question at the beginning of next week, you may be interested in the developments during the intervening period.

The Temporary Great Lakes-St. Lawrence Basin Committees, which were established in October last, have had a series of meetings at Massena and at Ottawa, and have prepared draft reports, of which I am enclosing two copies for your information. They are:

- (1) Engineers' Report, January 3, 1941, which is to be signed by General Robins and Mr. Guy A. Lindsay;
- (2) Report of the Temporary Committees, January 3, 1941, which will be signed by all the members of the Committees.

The Engineers' Report sets forth the conclusions from an engineering point of view, of two groups, and you will observe that the Canadian group includes Dr. Lefebvre, Dr. Hogg and Mr. Hendry. The Report of the two Committees will, of course, be signed by all of the members, and you will note that they submit the Engineers' Report as embodying their own conclusions. They recommend that, in the event that the Governments decide to proceed with the development of the International Rapids Section of the St. Lawrence River, the work should be undertaken in general accordance with the plan of the "238-242" Controlled Single Stage Project. This project would include a power dam in the vicinity of Cornwall and a control dam in the vicinity of Iroquois Point.

The Committees turned over the draft report, the terms of which were approved by all of their members, to the groups from the United States and from Canada who were discussing the provisions of a draft Treaty or Agreement. The Canadian group included Dr. Hogg and Dr. Lefebvre, as well as representatives of the directly interested departments of the Canadian Government. The result of their discussions is embodied in a draft Treaty or Agreement, and I am enclosing for your information:

(3) Two copies of Draft Treaty.

It would not be practicable to discuss this draft in this letter. There are certain points that are not settled between the Governments of this Country and of the United States, such as the form of the Instrument, the timing of the development, and certain of the financial terms. Speaking generally, however, this draft is not essentially different from that which was prepared in Washington a year ago.

It should be possible to discuss these matters more fully next week but, meanwhile, I am bringing the documents to your attention in order that you may have an opportunity to examine them. You will, of course, understand that they are still being treated as confidential documents.

I should like to take this opportunity of expressing my appreciation of the very great help that has been given by Dr. Lefebvre in working out the engineering phases of the development and in advising in the course of the negotiations.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable ADELARD GODBOUT,
Premier of the Province of Quebec,
Quebec City, P.Q.

No. 31

*From The Prime Minister of Canada,
To The Premier of Quebec.*

OTTAWA, March 12, 1941.

MY DEAR PREMIER,—

I should like to invite your attention to certain aspects of the St. Lawrence Waterway negotiations, which my colleagues and I have discussed with you and with your colleagues recently. It seems to me that it is desirable to confirm understandings which will need to be carried out by the Governments.

2. The Canadian Government has under consideration an Agreement with the United States of America which will provide for the development of waterway projects in the Great Lakes-St. Lawrence Basin.

3. The Agreement will include within its scope:

- (a) provision for diversions into or from the Great Lakes System, subjecting them to a measure of international regulation and control;
- (b) provision for regulation and development at Niagara;
- (c) provision for deepening the Welland Canal;
- (d) provision for the development of the International Rapids Section of the St. Lawrence River;
- (e) provision for the development of the National Section of the St. Lawrence River;
- (f) ancillary provisions, including adequate protection for power and navigation interests in the St. Lawrence River below the international boundary line, and authority to enable the Governments to establish appropriate boards of control.

4. Appropriate arrangements are being made with the Government of Ontario, designed to insure a just apportionment of the rights and obligations arising out of the development of power in international waters bordering upon that Province and to give to the Province suitable representation on international boards dealing with matters in which that Province is interested.

5. Considering the project as a whole, and bearing in mind that it involves the undertaking of works in the National Section in which your province is directly concerned, as well as works in the International Section involving problems in which Quebec has an important interest, it seems to be desirable to settle, before a final agreement is made between Canada and the United States, any questions that might arise between the Government of Canada and your Government.

6. There are three main questions in which the Government of the Province of Quebec has an important interest. The first is the question of representation on any international boards or commissions that might be dealing with problems of concern to the Government and Legislature of Quebec. The second is the apportionment of the rights and obligations arising out of the development of the Beauharnois section of the St. Lawrence River, in a manner that would be just, having in mind the interests both of the Government of Canada and of the Province of Quebec. The third is the settlement of the basic principles upon which would be worked out the ultimate development of power in the Lachine section.

7. First, with regard to representation on international boards or other bodies directing the design or construction of the works in the International Rapids Section of the St. Lawrence River for navigation and power, or directing the regulation or control of the flow of the river in that section, you may be assured that Quebec, at all times, will have adequate and acceptable representation.

8. Second, with regard to the apportionment of rights and obligations arising out of the development of the Beauharnois Section of the St. Lawrence River: power developments in this Section have been carried on over a long period of years, without the formulation by the interested Governments of any agreement that would provide for a just and fair settlement of the respective Dominion and Provincial rights arising out of a comprehensive power and navigation project. It is, therefore, necessary to reconsider arrangements in this section of the river, with a view to placing the respective rights and obligations of the two Governments in a position reasonably comparable to that which will be established under arrangement between Canada and Ontario for the comprehensive and co-operative development of navigation and power in the International Rapids Section.

9. With this end in view, the Government of Canada would be prepared to undertake that, if and when Quebec takes over the control and operation of the Beauharnois development, there will be paid to the Government of Quebec, by the Government of Canada, the sum of \$7,972,500. This sum is based upon the assumption that the common works will be completed before Quebec takes over the control and operation of the development and upon a calculation of the estimated cost of the common works in the Beauharnois section, made by Mr. Lindsay of the Department of Transport in co-operation with Dr. Lefebvre, Vice-Chairman of the Quebec Streams Commission, and it is understood that this estimated cost would meet with Dr. Lefebvre's approval. The actual figure is $37\frac{1}{2}$ per cent of the estimate. The reason for the adoption of this percentage is that the apportionment of the cost of common works between Canada and Ontario works out as $37\frac{1}{2}$ per

cent to navigation and 62½ per cent to power. If the occasion arose for the making of the payment before the completion of all of the common works entering into the calculation, there would need to be a consequential adjustment.

10. Third, with regard to the development of power in the Lachine section, we understand that no plans are presently being considered for the development of power in this section. It would, therefore, be premature to attempt to consider any detailed arrangements, and I am sure that you would be satisfied with an understanding that, if and when power is developed within the Lachine section, full recognition will be given to the rights and obligations of the Government of the Province of Quebec.

11. I am enclosing for your information copies of an exchange of correspondence with the United States Minister to Canada. This includes the following documents:

- (a) Note from the Secretary of State for External Affairs, to the United States Minister to Canada, March 5, 1941.
- (b) Note from the United States Minister to Canada, to the Secretary of State for External Affairs, March 10, 1941.

12. I should be grateful if you would let me know whether this statement with regard to the understanding reached is in accordance with your view.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable ADELARD GODBOUT,
Premier of the Province of Quebec,
Quebec City, P.Q.

PART V

GENERAL PLAN

No. 32

JANUARY 27, 1941

GENERAL PLAN

International Rapids Section Controlled Single Stage Project, 238-242



ST. LAWRENCE WATERWAY
INTERNATIONAL RAPIDS SECTION
GENERAL PLAN
CONTROLLED SINGLE STAGE PROJECT
238-242
SCALE IN FEET
General Engineering Br. Department of Transport
Ottawa, January 27, 1942

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